

1 **CLARK COUNTY PLANNING COMMISSION**
2 **THURSDAY, MARCH 20, 2003**
3 **MINUTES OF HEARING**
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7 City Hall Council Chambers
8 210 East 13th Street
9 Vancouver, WA

10
11 6:30 p.m.
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14 **CALL TO ORDER**
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16 The public hearing of the Clark County Planning Commission was called to order at 6:30
17 p.m. by Chairman, Vaughn Lein. The hearing was held at the City Hall Council
18 Chambers, 210 East 13th Street, Vancouver, Washington.
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21 **ROLL CALL**
22

23 PC Members Present: Vaughn Lein, Chair; Jeff Wriston, Vice Chair; Jada Rupley,
24 Lonnie Moss, Ron Barca, Dick Deleissegues, and Carey Smith.
25

26 Members Absent: None.
27

28 Staff Present: Pat Lee, Long Range Manager; Bob Higbie, Assistant Long Range
29 Manager; Rich Lowry, Chief Deputy Prosecuting Attorney; Elise Scolnick, Planner II;
30 and Sonja Wiser, Administrative Assistant.
31

32 Other: Cindy Holley, Court Reporter.
33

34
35 **GENERAL & NEW BUSINESS**
36

37 **A. Approval of Agenda for March 20, 2003**
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39 The agenda was approved as distributed.
40

41 **B. Communications from the Public**
42

43 None.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION:

A. REVIEW OF SELECTED RURAL PARCELS FOR CONSIDERATION FOR REDESIGNATION TO RESOURCE LANDS:

A public hearing to review selected rural parcels to be considered for redesignation in the Comprehensive Plan to resource lands. In 1998 the Washington State Growth Management Hearings Board ordered that about 3,500 out of 35,000 acres of rural lands originally designated as Agri-Forest (AF-20) and subsequently changed to rural residential, be further reconsidered by the county for the appropriateness of designation as agriculture or forest resource land. Landowners affected by this action have received specific mailed notice concerning this review.

**Staff: Bob Higbie, Project Manager, (360) 397-2375, Ext. 4113
Elise Scolnick, (360) 397-2375, Ext. 4958**

LOWRY: I'll start staff's presentation with a brief overview of how we got to this point. I'll try to keep it brief because I think the Commission's pretty much aware of what I'm going to talk about and we're dealing, I think, with a fairly well-informed public also.

LEIN: Mr. Lowry, could you identify yourself for the record.

LOWRY: Certainly. Rich Lowry, Deputy Prosecutor for Clark County.

LEIN: Thank you.

LOWRY: The genesis of the present agenda item was the 1994 adoption of the comprehensive plan which designated approximately 35,000 acres of the county in an Agri-Forest designation. That designation was widely challenged, but in 1995 was upheld by the Growth Management Hearings Board. Two years later, however, the Clark County Superior Court overturned the designation on the basis that it was not supported by the record and a hybrid Agri-Forest designation was not authorized by the Act. In response to that court decision the Board of County Commissioners appointed a 13 member task force who were charged with making recommendations on classifying the 35,000 acres in some designation other than agri-forest. The task force was highly split. It had a property rights faction that were basically interested in seeing redesignations to Ag 5, not to Ag 5, to Rural 5, it had an environmental faction, if you will, that believed very strongly that most of the property should be retained in Resource designation, and then it had a middle group that allowed some consensus to be reached.

At some point in the process when the task force was making very little progress, Commissioner Morris attended their meeting and gave what courts would call a dynamite charge to the task force, essentially telling them that they should work towards

1 reaching a 75 percent consensus on redesignations and if they were successful in doing
2 that, then the Board of Commissioners would probably accept their recommendation,
3 but if they were not able to reach consensus, then it would be necessary for the Board
4 to, and after the Planning Commission of course, to make the Board's own independent
5 determination. That charge to the task force worked and the task force was able to
6 come to a consensus, 75 percent consensus agreement on the majority of the 35,000
7 acres. However, shortly before the Planning Commission heard that recommendation
8 four members of the task force who were what I characterized as the property rights
9 contingency issued a minority report in which they took the position that in order for
10 property to be able to be designated as Resource it had to be in resource use, relying
11 upon the provision of the Act indicating that ag or forest land had to be primarily
12 devoted to resource use. The Planning Commission ended up accepting that minority
13 report.

14
15 After the minority report was issued the three member environmentalists contingency on
16 the task force issued its own second minority report in which it was recommended that
17 3500 acres that had been recommended by the task force for Resource designation
18 should instead have been designated as resource land. When the matter got to the
19 Board of Commissioners, the Board ended up going through an exhaustive
20 property-by-property analysis but ended up essentially rejecting the Planning
21 Commission recommendation and accepting the task force recommendation. That
22 decision was appealed back to the Hearings Board which upheld the County's
23 redesignations generally except for the 3500 acres that had been recommended for
24 Resource designation by the second minority report. The Hearings Board concluded
25 that the local decision making process was infected by a misapplication of law in that
26 less than a month after the Board had rendered its decision the State Supreme Court
27 issued a case called Redmond versus Puget Sound Hearings Board.

28
29 In that case the Redmond court held that whether property was primarily devoted to
30 within the meaning of the Growth Management Act was not dependent upon whether it
31 was in current use; instead the court, and this is their direct quote from the case, "we
32 hold that land is devoted to agricultural use under the statute if it is in an area where the
33 land is actually used or capable of being used for agricultural production." Because
34 four members of the first minority group at least one of those members was necessary
35 to reach the 75 percent consensus, 10 members out of the 13 member board, the
36 Hearings Board concluded that some of the consensus had to have been reached
37 based upon a conclusion that if the property wasn't in resource production, it couldn't be
38 classified as Resource.

39
40 The Hearings Board also, however, concurred with the County's position that these
41 designations were to be undertaken in an area-wide basis and not by narrowly focusing
42 only a particular, a specific piece of property. The Hearings Board finally in response to
43 contentions that the second criteria for designation, that is long-term commercial
44 significance, concluded that the County had erroneously listened to and gave weight to
45 evidence that it was not possible to have an economic gain from resource use. That
46 conclusion of the Hearings Board was appealed to Clark County Superior Court which

1 rendered a judgment that financial return, the capability of financial return was relevant
2 to some of the statutory and WAC factors that are expressly to be reviewed.

3
4 Okay, that's a basic overview. At some point it may be appropriate to get in more
5 specifically to the statutory and regulatory criteria that deal with Resource designation,
6 but I think I'll leave that to when we get closer to deliberations.

7
8 HIGBIE: Bob Higbie with Long-Range Planning. First I'd like to orient you and the
9 people in the audience to the packets that we made available because it's a pretty
10 complex document. First, at the front of the handout is the staff report history of the
11 process. Next is Exhibit A, which is a criteria that we used, that was used by the
12 Agri-Forest Task Force itself and the additional criteria which we added to evaluate
13 those properties. Staff added criteria of parcels being surrounded on three or four sides
14 and a proximity to waterlines criteria. Exhibit B contains two sets of spreadsheets. The
15 first set are those properties that staff is recommending for change from Rural
16 Residential to a Resource designation, and the second set is all properties that were
17 reviewed, including those we did not recommend for a change.

18
19 In the upper right-hand corner of the spreadsheets are some colors, light blue, dark blue
20 and pink. The light blue is where staff is recommending a change to a Resource
21 designation and the parcel was not discussed by the Board in the 1998 hearings. Or at
22 least we couldn't find any evidence that that discussion took place. The dark blue are
23 those parcels we are recommending for a change and were previously discussed by the
24 Board of Commissioners at those hearings in 1998. The pink colors, which only show
25 up on the spreadsheet, that covers all of the parcels that were considered are under
26 Exhibit B2 and those indicate that no change is being recommended, but the parcels
27 were discussed by the Board in 1998.

28
29 Exhibit C has two sets of maps. The first set are those properties staff is recommending
30 for a change to Rural Residential from Rural Residential to a Resource designation, and
31 the second set is all the properties that were reviewed. The first set also behind it
32 contains a set of aerial photos that were flown in about 2000 and give a good idea of at
33 least the aerial view of what the properties look like. The remaining exhibits are
34 historical documents and meeting notes, the Hearings Board remand decision, the
35 comments from the public, from the open houses that we held, the SEPA checklist, and
36 a letter of notification that we sent to all the property owners that were subject to a
37 recommendation to change their property.

38
39 Regarding the notification, we only sent the notice to those people who we were
40 recommending for a change to their property on, we did not mail a notice to anyone
41 where we were not recommending a change, therefore any change in status of those
42 properties that were not recommended for a change would require us to provide further
43 notice to those people. Because we had made every effort to contact the affected
44 property owners through direct mail, there was also an article in the Reflector
45 Newspaper that identified every landowner by name. We held two advertised open
46 houses. We had any number of telephone conversations with many of the people that

1 were affected by our recommendations and we feel that everyone that wanted to know
2 about what we were doing and the process was given that information. We advised
3 them how to get involved, what kind of information they might want to present, we
4 provided them with the colored maps and the spreadsheets and the draft staff reports at
5 those open houses, and also all that information is available, is and was available on the
6 web site. We have received a number of written comments and we forwarded them on
7 to you as soon as we got them, I believe there's one or two that you may have got
8 tonight.

9
10 What I'd like to do from here is suggest a format of the hearing. We're going to suggest
11 that the format is being driven by the number of parcels involved in this thing. There's a
12 total of 94 parcels that we reviewed, 43 parcels we are recommending for a change and
13 they are under 25 distinct ownerships, so we're suggesting that we present our
14 information concerning the general criteria and methods that we used to make our
15 recommendation, including several examples, then at that point the Planning
16 Commission may have questions of us or want to discuss general issues or concerns
17 that you may have. At that point, then, we think it would be good to request testimony
18 that is not specific to individual parcels. If there's people in the audience that are here
19 to testify based on general philosophy or something that involves all of the parcels, that
20 would be a good time to do that. Then we would summarize findings and conclusions
21 on our recommendations on the first map, you could then ask individual property
22 owners to testify on that map, and then we would recommend that the Commission
23 consider voting or making your recommendations on the first map before we move to
24 the next. We have a total of four maps where we've been recommending, that we are
25 recommending changes on.

26
27 The only alternative to that is to complete the review and the testimony on all of the
28 maps and then come back and rely on your memory to the first map and then start
29 going through it again. And I don't know about you, but this has been a stretch for me
30 to understand all of these and I've been spending quite a bit of time at it. So how would
31 the Planning Commission like to proceed on this?

32
33 LEIN: We've discussed this and I think that's fine, we'll proceed with that.

34
35 HIGBIE: Okay. Regarding the staff report, the criteria that we used again is shown on
36 Exhibit A in the staff report and the spreadsheets in Exhibit B. The criteria that we used
37 to evaluate were based, are identified mostly in Washington law and were used by the
38 Agri-Forest Task Force on how to designate agriculture, forest and rural lands. Those
39 criteria include parcel and ownership sizes, critical areas, forest cover, soil quality, tax
40 status and environmental considerations. We also want to alert you to the Assessor's
41 notes in Column O of the spreadsheets, those comments, at least at the workshop,
42 raised some eyebrows with members of the Commission. We have attempted to verify
43 those notes by using those comments and then verifying or not verifying what those
44 comments are related to the aerial photos and the site visits. It's our conclusion that the
45 assessors when they go out and make notes are making those notes for purposes other
46 than what we are trying to do here and therefore because there's totally different

1 reasons for doing it they came out a little different than you might expect. And so the
2 notes that we have that respond to that are in Column U, those are the staff notes.

3
4 Using Map 1 as an example of our review, which is shown on the overhead, it has three
5 areas that we've recommended for a change to from Rural Residential to a Resource
6 designation and one of those areas, one area for no change. Area 8 is the area that
7 we're recommending for no change. Those properties are each about 40 acres in size
8 and are separated from each other by a significant distance. One is State owned and
9 managed by DNR, the other is owned by the Mungers. Both have high-quality
10 agriculture and forest land soils abut Forest Tier II land and are in farm or forestry use;
11 however, they're surrounded on three sides by nonresource residential designations
12 and therefore we determined that it's not likely to be effectively managed for resource
13 use over the long-term. Sections 9, 23 and 20 of Map 1 are recommended for change
14 to Resource designation due to the large sizes of the contiguous parcels, adjacency to
15 existing resource designations, the resource uses of the property and several are in
16 current use tax program or are State owned. Three of those properties are not in a
17 special tax program. Again, the record of our technical review and recommendations
18 are included in the staff report and the exhibits in your packet.

19
20 Now one issue that's kind of an aside to this that came up as a result of our open
21 houses was from foresters who owned some of this land who feel that they're caught
22 between State and local government requirements particularly regarding setbacks from
23 streams. It appears that our stream setback buffers are significantly different than those
24 from DNR depending on if you're classified as a small landowner or a large landowner.
25 We were unable to as staff to answer those questions at the time during the open
26 houses; however, afterwards we've been communicating with Jim Vandling who's the
27 County Forester and he's here to talk to that issue. He is familiar with both the local
28 County buffer requirements and the DNR requirements and the work that we and other
29 people are doing to try to remedy those two conflicts. So, Jim, if you could speak to that
30 issue.

31
32 VANDLING: Thank you. Although it might seem premature to be discussing forest
33 practices in relation to the zoning change right now, some things that have been
34 discussed in the open houses may have some bearing in the way you look at the
35 testimony that you will hear later on this evening from the public and some other
36 information that the public may provide you regarding these buffer requirements. First
37 of all, we've got two sets of regulations now for forest practices and we have now a
38 County ordinance that was adopted almost two years ago, and we've got a new set of
39 State standards which you will find under the Washington Administrative Code, Section
40 222-30-023. Specifically this is directed towards landowners that are classified as small
41 landowners. There has been a conflict recently between the way the State has been
42 administering the small landowner exemptions from what was originally intended that
43 came out of the Timber Fish and Wildlife Agreement and what is now currently being
44 administrated on the State level. The "small landowners" are defined as landowners
45 owning less than 80 acres in the state of Washington and presently the DNR is granting
46 them exemptions to the larger buffers if they have parcels that are less than 20 acres in

1 size.

2
3 The conflict lays in what was initially recommended through Timber Fish and Wildlife for
4 the small landowner exemptions and that was owning less than 80 acres in the state of
5 Washington and having a forest practice application that had a net harvest area of 20
6 acres or less, not parcel size 20 acres and less but the net harvestable acres being less
7 than that, and so it kind of throws some landowners that have parcels that are slightly
8 over 20 acres, it throws them into a large landowner classification where buffers are
9 substantially larger than what the small landowner buffers are. And to clarify that, the
10 small landowner buffers are essentially the 1993 pre-ESA, pre-GMA and pre-TFW
11 buffers. For example, a Type 1 water that would be shoreline of the State would have
12 had a 115-foot buffer for a small landowner, where if you get into a large landowner
13 classification that buffer is almost 200 feet, so it is quite a bit different.

14
15 Now when we adopted here in the County the forest practice ordinance which is 13.55
16 of the County code, we also adopted the same criteria that the State had established for
17 small landowner classifications if the applicants were undertaking a timber harvest
18 under what we term to be a conversion option harvest plan. The buffers that we
19 adopted for the small landowners were slightly larger than the DNR's buffers at that
20 time. Now the DNR has just implemented the new hydro layer for water typing
21 throughout the state and if we compare the buffers that they're designating for small
22 landowners under the new hydro layer and compare them against comparable water
23 types for small landowners under the County standards, you will find that the DNR
24 buffers are actually larger than the County's buffers for small landowners in half the
25 cases. And that's half of the water types. However, if you take half of those water types
26 and apply them against what we generally run up against occurring on these
27 applications, you're talking well over three-quarters, if that makes any sense. So the 20
28 acre language actually has some bearing because there are landowners with 40-acre
29 parcels who could qualify for 20-acre exempt land divisions, maybe they'd want to give
30 20 acres of their 40 to a family member or maybe just sell it. So it does have some
31 bearing from that angle and I'm sure there will be some more discussion later on this
32 evening from some of the people in the audience. Any questions?

33
34 LEIN: Any questions of Jim?

35
36 MOSS: No. Jim, I do want to thank you for being here and clarifying that, I think that is
37 a key point. I think that -- I hope everybody understands exactly what Jim said. And if
38 you don't, this is a good time to seek clarification from him because I think it's a very
39 important point as far as whether or not we're doing the right thing in designating some
40 of these parcels as resource land and foreclosing some of the options that these folks
41 have for managing these lands.

42
43 VANDLING: One other note is that we here in the County have been administering
44 these conversion option harvest plans for small landowners under the original intent of
45 the Small Landowner Office in that sense we've been using the 20 acres or less of total
46 net harvestable acres under the permit, not parcel size, and so this has presented a sort

1 of conflict between County Forestry Administration and State Forestry Administration
2 because our conversion option harvest plans eventually roll into a State permit. Our
3 question to the State has been, okay, since you have recently viewed the definitions
4 under your own WACs differently from the way you had been, if we turned in to you
5 another approved conversion option harvest plan using 20 or less harvestable acres will
6 you approve that as a State permit and the answer was we don't know. In other words
7 they could or they couldn't. So we have asked through various channels the
8 Commissioner of Public Lands to address this in a formal policy statement, which he
9 actually has to take to his executive committee in the DNR and then it has to go to the
10 Board of Forest Practices for their adoption. It will not actually be a change to the
11 RCWs or a change to the WACs, it will be formal DNR policy that will be in play from
12 there on in. Our expectation is that the policy will take the form of the way we have
13 been administering the 20-acre exempt parcels for smaller buffers.

14
15 MOSS: Jim, just to clarify a point, and I do appreciate how the County has been
16 administering that, but to clarify a point, the conversion option harvest plan really only
17 applies to those lands that have the possibility of further development; isn't that correct?
18 And in this county that's really the rural lands. While we have some protections in
19 place, I guess there are some lesser buffer requirements under that conversion option
20 harvest plan and your administration of that is considerably more friendly toward the
21 landowner. The fact is that any of these lands that are designated as Tier I or Tier II
22 Forest would not qualify for that conversion option harvest plan permit in the first place,
23 isn't that right, because they aren't developable?

24
25 VANDLING: Correct in the sense that the Tier I lands would, there would be no
26 purpose basically to have a conversion option harvest plan on any Tier I land.

27
28 MOSS: My point, though, that I'm making is that we are talking about converting some
29 of these lands from Rural where they could qualify for a conversion option harvest plan
30 to Resource where they couldn't.

31
32 VANDLING: That would be, that would be an acceptable assumption.

33
34 MOSS: Yeah. Okay, thank you.

35
36 LEIN: Any other questions of Jim?

37
38 DELEISSEGUES: Yeah, I've got a question. Can you convert from say timber and use
39 the conversion policy you're talking about to go to another agricultural crop rather than
40 development?

41
42 VANDLING: And we do see that occasionally converting from timberland into row crops
43 or pasture land. In that case, then, we do have it in the code to require a farm
44 management plan that goes along the same guidelines of what the NRCS provides for
45 landowner assistance.

1 MOSS: But would that be considered a COHP or would that change buffer
2 requirements?

3
4 VANDLING: You could incorporate a pasture conversion or an ag conversion into a
5 COHP as long as you articulated how you were going to be managing that land in its
6 future use as opposed to how you're managing it in its current use.

7
8 MOSS: Just so that I'm correct in my premise, because I think I'm going to argue this
9 point later this evening or whenever we get to our deliberations I want everybody to
10 understand, if we take an example of someone who has 40 acres of timberland that's
11 currently in a Rural designation, that person could legally segregate that parcel into two
12 20s --

13
14 VANDLING: Correct.

15
16 MOSS: -- correct? And either under the County rules or the State rules, either one,
17 could that person if they qualify as an owner of less than 80 acres of forest land
18 statewide, and if they're harvesting on a parcel of 20 acres or less, they could qualify for
19 the small landowner exemption and get the lesser buffer requirements --

20
21 VANDLING: Correct.

22
23 MOSS: -- right? But if we keep that or if we change that 40 acres to a 40-acre
24 minimum as a resource land Forest Tier II that would not be possible; is that not
25 correct?

26
27 VANDLING: It depends on which side of the permitting process you would be looking at
28 it from. Are you looking at it from the County side or the State side? If you're looking --

29
30 MOSS: Well, I'm looking at it from the viewpoint that if this is a 40-acre parcel and it's
31 now Tier II, 40-acre minimum, there is no option, really, for a conversion option harvest
32 plan, there's nothing to develop.

33
34 VANDLING: Because there would be no two 20s.

35
36 MOSS: So it couldn't come under the County side, it would have to be under the State
37 side, so the large landowner rules would apply?

38
39 VANDLING: Right.

40
41 MOSS: That land couldn't qualify for a small landowner exemption?

42
43 VANDLING: Correct.

44
45 MOSS: Okay, thanks.

46

1 LEIN: Any other questions at this time? Thanks, Jim.

2
3 HIGBIE: I'm sorry.

4
5 LEIN: Mr. Higbie.

6
7 HIGBIE: That concludes our staff report. So following the format, if you have any
8 questions, now would be the time to ask them and then move into taking the general
9 comments from the public.

10
11 LEIN: Any other questions at this time?

12
13 MOSS: I'm not sure I have questions of staff but I do think, I do think that it might be
14 appropriate for members of the Planning Commission to discuss what it is that we're
15 supposed to be accomplishing here, you know, what is the charge, what is the outcome
16 that we hope to achieve here, why is it that we're looking at this property for designation
17 potentially as resource land, what that means, what criteria were used and what those
18 criteria mean, but particularly what are the effects, and I'd be willing to start that
19 discussion a little bit.

20
21 You know, GMA does require that Counties identify and protect resource lands that
22 have long-term commercial significance for agriculture, for timber production or for
23 mining, and that's one of the requirements of GMA, the County has to do that. There
24 are some criteria that have to be met there of course, but really the way I read GMA the
25 County has really no option, that if a land, if property qualifies as resource land, it really
26 must be designated for that purpose, it doesn't really -- the County does not really have
27 the option that it has in most other zoning designations. We can designate a piece of
28 land as industrial, commercial, residential pretty much at our whim, I'd like to think that
29 we don't do that, but I don't think that we have quite the same amount of latitude when it
30 comes to designating resource land. The question that I'd like to get a little discussion
31 going on is, first, how do we identify those lands, what does that mean, and, secondly,
32 what is protecting those lands, I mean, and why do we do that. I'd like to have some
33 discussion of the criteria because I'm not sure that I understand how the criteria that are
34 listed here were applied at arriving at some of these designations.

35
36 And the second thing is that I'd really like to clarify what is meant under GMA by
37 protecting these lands. From my point of view, and I think anybody's interpretation of
38 GMA will produce generally the same point of view, we're supposed to be protecting the
39 land base upon which these natural resource industries depend to remain viable; that is
40 we can't take away the agricultural land base or we can't take away the forest land base
41 and expect that tree farming, the timber harvest industry or agriculture could be
42 sustained without that land base. But first that gets to the question of whether we have
43 a viable industry in this county to maintain, and also it gets to the protection what do we
44 do to ensure that those industries can be maintained here.

45
46 I'd like to say at the outset that I think that both agriculture and timber production in this

1 county add a great deal both to certainly to our environment and to our way of life here,
2 they add a lot to the quality of life, and I think that we want to do everything that we can
3 to ensure that those two industries stay here as long as they can. We certainly have a
4 viable tree farming industry here. We also have a pretty viable large commercial forest
5 industry up in the northeast part of the county, and I would like to point out that I think
6 very few people could argue that the dark green area that's shown up here on the east
7 and north part of the county which is the forest land that's undoubtedly devoted to
8 timber production and is also best suited for that needs to be protected from
9 encroaching development, I don't think any of us would argue about that and I think it's
10 all rightfully zoned.

11
12 I think where the issue really comes to bear here this evening is that isn't the area that
13 we're talking about, what we're talking about is the area that's over here in the middle of
14 the county and in the north part of the county, and to some degree even close to the
15 urban growth boundaries, and the question there to me becomes, first, is that resource
16 land of long-term commercial significance, and, secondly, is this exercise that we're
17 going through tonight something that will be helpful in maintaining that long-term
18 significance. Having said all that, I guess I'd like to have some feedback from the rest of
19 you Commissioners, or even from staff, as to what it is that we desire as an outcome
20 here, what are we working toward.

21
22 LOWRY: Well, from my perspective our purpose here is to deal with a remand that's
23 been ordered by the Hearings Board. It is in my personal opinion a rather foolish
24 remand because we're dealing with scattered properties which you can't address this
25 issue, these 3500 acres, in a comprehensive fashion and that's the way the
26 designations of resource land occurred in '94. Instead we've had to proceed on almost
27 a parcel or on a parcel-specific basis and are treating this as essentially an edge issue,
28 did we draw the resource boundary at the right location. It becomes a very technical
29 exercise of taking the statutory and regulatory criteria, putting them on a spreadsheet
30 and making a judgment call. Is this important work from I think an overall
31 comprehensive plan perspective, no; from the standpoint of the peoples whose
32 properties are going to be affected, yes. So, I mean, I don't know how, if there's a way,
33 to answer your question in a meaningful fashion. This remand has sat at the County for
34 probably ten times the remand period that we had simply because nobody had the
35 enthusiasm to tackle it. But if you're going to try to get at the issues that are presented
36 here by asking fundamental questions about resource protection, you're going to be
37 spinning wheels in my judgment.

38
39 MOSS: Well, I appreciate your comments and I think it's going to be difficult. And it's
40 not my intent to make it easy, I'll tell you that at the outset. I don't think this will come as
41 any surprise to anybody, but I've had some real difficulty with the designation of
42 resource land that occurred back in '94, I think that the County at that time ducked the
43 whole issue of long-term commercial significance and said we'll look at soil types and
44 productivity of those soils not from an economic viewpoint but from just kind of a
45 general classification viewpoint and we really won't look at the economics of agriculture
46 here nor the economics of tree farming and I've been troubled about that for some time.

1 And it's not because I would like to get rid of either agriculture or tree farming in this
2 county, but I've got significant concerns about what we did for zoning in the past. For
3 example, we have 41,000 acres plus or minus of designated agricultural land in this
4 county that we've chosen to protect by zoning it as 20-acre minimum. I'm not sure that
5 we have anywhere near 41,000 acres of viable agricultural land in this county. And
6 that's not to say that I'd like to see all of it develop into 5-acre tracts, but I do wonder
7 what we mean by protecting these resource lands.

8
9 It seems to me that the only thing that the County has done up until this point to protect
10 resource lands is to designate these lands and give them large lot zoning, that isn't the
11 only trick in the box, and I think I'm particularly concerned about that for some of the
12 reasons that we just outlined earlier in this discussion. I see that the large lot zoning in
13 some cases is going to make it very tough for some of these people who get Tier II
14 Forest designation that we're talking about here today to survive and actually have
15 long-term commercial significance. It seems to me that we're doing exactly the wrong
16 thing in some cases, that this isn't protecting, that this is actually hindering. I don't want
17 to make a filibuster out of that, but nor do I want to be a participant in designating a
18 bunch of additional land for resource protection without having a clear understanding of
19 where it is that we're going and how we're going to help these folks who are involved in
20 these two industries, agriculture and tree farming, to do a better job of it and to survive
21 given the constraints that we continually pile upon them such as these setbacks that
22 we're talking about. So, you know, while I realize and appreciate that this may get the
23 wheels spinning, I'm not sure that I wouldn't just as soon settle for wheel spinning as to
24 have the wrong outcome to make it easy.

25
26 DELEISSEGUES: It just seems to me that we're here, and Lonnie asked the question
27 what our objective is, we're here to provide a recommendation to the County
28 Commissioners that fits some sort of criteria, I guess, that's within the boundaries of the
29 Supreme Court decision which says as I read it on Page 13 that when we did use
30 viability long-term significance, it says all but inaccurately in determining the lack of
31 current resource use and lack of commercial viability conclusively disqualified the
32 property for consideration as resource land. We've got to come up with something else
33 that would, if there are, and I think that's why we're here, to listen to the testimony, to
34 hear people say why is their land viable as Rural land rather than Resource land or
35 vice-a-versa. Maybe some people would benefit by having their land remain designated
36 as Resource land, that's possible, there's grants and different kinds of things that are
37 made available to people that have resource land that may not be available to people
38 that have rural land that is developable, and I think Jim hit on some of the other issues
39 that might differentiate, but I think we've got to steer clear of the argument that because
40 its lack of current resource use or there's no commercial viability we can't hang our hat
41 on that, and that's what the Supreme Court told us and that's why we're here.

42
43 LOWRY: Right. I think you're quoting from the Hearings Board on those two. The
44 Supreme Court decision did speak to whether resource land had to be in current use,
45 the issue of long-term commercial viability is one that was mentioned by the Supreme
46 Court by reciting the statutory definition of what that means, and the Hearings Board

1 said since that statutory definition did include return that economic viability wasn't an
2 appropriate criteria, the Hearings Board, however, got overturned on that portion of their
3 decision.

4
5 DELEISSEGUES: Of course I think that the argument that they made in support of that
6 is still a good one. If somebody decides not to produce agricultural product or timber
7 products from the land, leave it fallow, then make the argument that, okay, it's not any
8 longer economically viable, therefore it ought to be zoned into Rural land, that's the
9 other side of the coin. So I would rather that we came up with some criteria other than
10 that because it seems to be if that's all we use to differentiate one from the other, it's
11 fairly weak. And I think there are other issues and I think maybe we ought to explore
12 some of the other criteria that the County's used here and discuss that, just certainly
13 adjacent land, the use of the adjacent land, the transportation system, availability of
14 public water, there's I hate to use that one because we've argued here time and again
15 that sewer and water shouldn't be used as a criteria for zoning and I hate to open that
16 box up again, but, you know, there are, there are some other criteria I think we could
17 look at that might accomplish the same objective.

18
19 MOSS: Actually if I could just make a couple of comments. First, we've argued down
20 on sewer but we've never had that argument on water, that the reason that we've
21 argued that on sewer is we have a County policy that says the Rural can't be on sewer
22 except in the rural centers of Hockinson and Meadow Glade, but there's PUD water
23 available in the rural area and no prohibition against using that. I would like to make
24 one point though, Dick, and that's that the Hearings Board correctly ruled according to
25 the Supreme Court that land doesn't have to be in actual resource use in order to be
26 designated as that for the very reason that you mentioned, that somebody could take it
27 out of resource use and say, well, you know, it hasn't been in for two years so therefore
28 I want it rezoned as Rural.

29
30 But the other point that the Hearings Board incorrectly interpreted from what the Court
31 said was that there was no necessity of being able to make a buck off of this land and
32 that was something that went before Superior Court here and Judge Bennett ruled that
33 isn't correct, that you do have to be able to get an economic return.

34
35 WRISTON: And the Supreme Court, Rich, I think you said --

36
37 MOSS: Or that is appropriate to consider.

38
39 WRISTON: They just didn't say how much, but they did say that was an important
40 factor, right, the Supreme Court?

41
42 LOWRY: On economic return?

43
44 WRISTON: Right.

45
46 LOWRY: No, the Supreme Court in Redmond didn't --

1
2 WRISTON: I thought you said it was a factor.
3

4 LOWRY: -- talk about it at all. What the Supreme Court said was that the statute
5 defines long-term commercial significance to include growing capacity, productivity and
6 soil composition in consideration with the land's proximity to population areas and
7 possibility to more intense uses of land. The Hearings Board said that because that
8 definition doesn't include economic return it was improper to consider evidence of lack
9 of ability to get economic return. What Judge Bennett said in overturning the Hearings
10 Board was that to the extent that potential for commercial gain is related to the term
11 "commercial viability" and to the extent that that concept affects land valuation and other
12 factors set out in the Redmond decision, which I quoted the definition, such concept
13 may be considered in the designation of whether or not land has long-term commercial
14 significance.
15

16 WRISTON: That's what it was. So that's what stands today, though?
17

18 LOWRY: Yes.
19

20 WRISTON: That's what it was. Not a whole lot of direction but direction that it's a
21 factor.
22

23 MOSS: Correct.
24

25 LOWRY: And again what I'd emphasize is at least as I read Judge Bennett's ruling
26 what he's saying is that you're to look at the factors that are set forth in the definition
27 here and then there's some WAC guidelines that amplify, and those are what are
28 reflected on the spreadsheets, that to the extent evidence of economic return relates to
29 those factors, you can consider it.
30

31 BARCA: So that being said, we have a great deal of criteria that's been put forth by
32 staff. Are we rejecting that criteria? Are we amending that criteria? I'm a little confused
33 on what the direction is as far as this discussion goes. If we are going to accept the
34 criteria laid down by staff with the possible alteration of it based on a parcel-by-parcel
35 review, then I think the discussion has some merit. If we're going to try and get into a
36 generalization about it, I think we're going to have the rest of the night going through
37 that same discussion. So was it your intention, Lonnie, to try and add criteria to what
38 staff had put down?
39

40 MOSS: No, not at all, Ron, it was my intention to try to better define how staff used
41 those criteria and what they really mean. For example, the quality soils and how that
42 related to the designation of agricultural land particularly, what do we mean by "the
43 quality of soils" or the "productivity of soils" and how was that used.
44

45 WRISTON: Well, I think with the quality of soils you can relate it back to what Judge
46 Bennett said and what Rich just said, I wrote it down, to the extent that the economic

1 return relates to those factors, so if you don't have the quality soils, you have a less
2 than economic return or a diminished economic return or no economic return and that
3 relates to that factor. Would that be a good example?
4

5 LOWRY: It could be, but I'd emphasize in terms of soils specifically the WAC
6 regulations require that we use the Soil Conservation Service classification system and
7 that was what was done in '94 and was again done this go-around using (inaudible)
8 maps.
9

10 WRISTON: But if we hear testimony tonight -- I mean there's classification and there's
11 testimony saying these soils don't grow crops, it doesn't matter you were saying?
12

13 LOWRY: Well, no, no, that's --
14

15 WRISTON: I mean maybe that's -- I'm trying to relate where we stand legally with
16 Bennett and what he's saying and how you relate these factors to --
17

18 LOWRY: Well, soils are directly a criteria. You can look at soils without even getting
19 into the Hearings Board issue about economic return.
20

21 WRISTON: Right. But you can also relate, but soils has to do with, I think soils is a
22 huge part in the economic return, isn't it, Lonnie, or --
23

24 MOSS: Well, it is. But having said that we're going to use this SCS designation how do
25 we actually apply that. There are very few of these parcels here that have a consistent
26 soil type throughout and if they do, even if they do, what's our cutoff. Are we talking
27 about Type 1 soils, 2 soils, 3, 4, 5?
28

29 HIGBIE: There's 1 and 2 for both Ag and Forestry.
30

31 MOSS: For how much of the parcel?
32

33 BARCA: It's on the spreadsheet Exhibit B --
34

35 HIGBIE: Yeah, they vary.
36

37 BARCA: -- which would be Column M and N.
38

39 MOSS: That's Column M and N give the percentage that supposedly falls in prime ag
40 soils, how have you designated prime ag? Is that 1 and 2?
41

42 HIGBIE: Correct. Yes.
43

44 MOSS: The criteria the first time around, being prior to '94, the criteria that were used
45 at that time were explicitly that you had to have at least 40 acres, either a 40-acre parcel
46 or two 20s, to constitute the core area for agriculture --

1
2 LOWRY: Correct.

3
4 MOSS: -- and that all of that or most of that had to be prime and unique.

5
6 LOWRY: Correct.

7
8 MOSS: Was that same criteria used here?

9
10 LOWRY: No, because the decision here was made that if we were dealing with an
11 isolated parcel it was not, it was not eligible for staff or it wouldn't be recommended by
12 staff. So all of the proposals to go to either Ag or Forest are already adjacent to a larger
13 Forest or Ag area.

14
15 MOSS: Actually I don't believe that's the case, but we can discuss those as we go
16 through them.

17
18 HIGBIE: Put another way, there's roughly half of the parcels, half of the land that we
19 looked at that we did not recommend a change for even though it may have had the
20 kind of Type 1 and 2 soils that would have otherwise said it should be agriculture or
21 forestry because they were surrounded by nonresource zoning, they were isolated, in a
22 sense we concluded that they were isolated and therefore wouldn't be appropriate for
23 long-term commercial agriculture or forestry uses.

24
25 MOSS: Okay.

26
27 LEIN: Are there any other general comments to Lonnie at this point before we open it
28 up?

29
30 WRISTON: Well, I have a general question to Rich that I just want to clarify on the
31 quality of soils. I'm just trying to figure out how we relate testimony to the WAC
32 requirements to Bennett and, you know, all this stuff. I mean where we say that on the
33 quality of soils that you use, you know, you're required to use the, you know, the SCS or
34 whatever, that's a general mapping system, and then we get testimony tonight that
35 says, okay, great soil, no drainage, ponding, you know, whatever, I don't know. I mean
36 I'm not a -- how do we, you know, good, they, you know, it's a Type 1, Type 2, we're
37 hearing testimony tonight can't grow anything.

38
39 LOWRY: I think that's for you to resolve. You have one piece of evidence --

40
41 WRISTON: We can look at it but we can --

42
43 LOWRY: -- in terms of the map and you have testimony that's contrary to the map and
44 --

45
46 WRISTON: We decide or we can recommend --

1
2 LOWRY: Yes.

3
4 WRISTON: -- based on that? Good.

5
6 LEIN: Rich, what about the issue of the crop they're trying to grow or did try to grow
7 doesn't work but other crops work on the same land?

8
9 LOWRY: The same, same comment, I mean that's a -- the way GMA is designed it
10 doesn't try to get at profitability directly by having the County do some sort of income
11 stream analysis, it instead tries to get at indirectly by saying first you have to have the
12 type of soils that the Soil Conservation Service says are good and then you have to look
13 at other issues which presumably play into long-term commercial significance, including
14 tax status, availability of public services, relationship or proximity to UGAs, predominant
15 parcel size, land use settlement patterns in the area, intensity of nearby land uses,
16 again the factors that staff applied in making its recommendation to you.

17
18 LEIN: If there's no objections I'd like to open it to just general comments from the
19 audience. At this time we'd like to open it to general comments about the 3500 acre.
20 Yes, young lady.

21
22
23 **PUBLIC TESTIMONY**

24
25 BRASKETT: Could I stand up.

26
27 LEIN: You have to come up to the microphone, state your name and address for the
28 record. Now these are not individual parcels, what we're talking about is the entire
29 concept that we've been discussing for the last hour.

30
31 BRASKETT: My name's Jeri Braskett, my address is 7811 NE 252nd Street, Battle
32 Ground, Washington 98604. Okay.

33
34 LEIN: Can you be sure and speak into the microphone so that your voice gets
35 projected.

36
37 BRASKETT: Can you hear me?

38
39 LEIN: Try again.

40
41 BRASKETT: Can you hear me?

42
43 LEIN: Can you hear me now, yeah.

44
45 BRASKETT: Can you hear me now?

46

1 LEIN: Yes.

2
3 BRASKETT: Okay. My name's Jeri Braskett. I am a citizen of Clark County. I have
4 been a resident of Clark County for over 40 years. I own homes and land in Clark
5 County, but I do not own any of the land involved in the proposed rezoning. I have no
6 financial interest in any of the land involved in the proposed rezoning. I have two main
7 points. Point number one, from what Bill Higbie told me at the open house a minority
8 report made up of about four citizens and a lawyer motivated this upheaval. I find it
9 peculiar that none of your homes or your land were chosen to be bulldozed for more
10 much needed community parks and open spaces. This unexpected arbitrary rezone
11 proposal ceases the value of these property owners, of these owners' property without
12 fair and financial compensation. If our community wants these open spaces or if it is
13 truly mandated from above, then we must approach these owners nicely and
14 respectfully appreciating their hard work, sacrifice and toil which comes from
15 landownership. If we decide to enact this proposal we must compensate them fairly for
16 their loss.

17
18 This brings me to my second point. As for the handling for Tiger Lily Development, are
19 you familiar with this? Okay. As for the handling of Tiger Lily Estates, Clark County
20 planners' deceitfulness, unequal treatment and other immoral strategies to achieve their
21 desired zoning objectives led to successful legal action against Clark County and a
22 penalty price tag. The cost to all of us taxpayers might be upwards to half a million
23 dollars in damages, plaintiff attorney fees, as well as all of Clark County defense
24 attorney fees. It is not the developer Mike Achens' fault that he must be compensated
25 for incurred damages, it is our fault for not supervising our planners better. Let us not
26 make a similar mistake morally or financially again regarding this rezoning proposal.
27 Please, we have better uses for our tax dollars than to pay for legal battles, for legal
28 battles after treating our own citizens improperly. Thank you.

29
30 LEIN: Are there any questions from members of the Commission? Excuse me, were
31 there any questions from members of the Commission?

32
33 DELEISSEGUES: I guess not.

34
35 LEIN: Okay. John, please.

36
37 KARPINSKI: My name is John Karpinski, I'm here on behalf of Clark County Natural
38 Resources Council, I'm the, of course, for people who don't know the attorney who filed
39 the appeal that got the remand that's before you today. I guess to parallel Lonnie's
40 comments I'm not here to make it easy either; however, I do support what the staff has
41 done here as a compromise. Do I think it meets the legal criteria, no. Do I think it's, you
42 know, the split the baby in half Solomonesque kind of resolution to this issue that's gone
43 on for almost a decade now, yes, and on that level I support it. Now I do want to note
44 that the Board decision was 2 to 1 with the dissenting vote asking for another 7500
45 acres of land to also be designated as part of the remand, that was the 7500 acres that
46 was previously designated Agricultural and Resource land that was not designated

1 Agricultural and Resource land in the 35,000 acre remand. So I agree the key here is
2 the criteria, and that's what I want to talk about, I want to talk about the criteria, I want to
3 talk about the Redmond case.

4
5 Now the Redmond case was specifically talking about ag land so I want to talk about
6 that, but essentially they got to their ag conclusions based on the forest statute. So the
7 Ag and the Forest criteria are pretty similar here, I won't say they're identical but they're
8 pretty similar. So what are the two criteria? I'll quote right from the opinion. There's
9 two things, it's like a flow chart and you have to go through this like a flowchart, is this
10 devoted to agricultural use. Okay, how do you determine that, we hold land as devoted
11 to agricultural use under the statute if it's in an area, area not parcel-specific, where the
12 land is actually used for, capable of being used for agricultural production. And the
13 entire case focused on the "capable of being used for agricultural production" because
14 this land had laid fallow for decades in Redmond.

15
16 The second criteria under the statute is whether it's land of long-term commercial
17 significance. There's five criteria here, three of them involve soil types. Under, and this
18 is Redmond, Page 54, under the statutory definition of this second element the Board
19 must evaluate growing capacity, that's a soil issue, productivity, that's a soil issue, soil
20 composition, obviously a soil issue, proximity to population areas, and to me almost
21 none of these are close to a population area, and the possibility of more intense uses of
22 the land. So if you look at those five criteria from the statute, three of them are soil
23 types, one of them is a proximity test that I don't think is met by any parcel here, and the
24 other test is the possibility of more intense use of the land, that refers into the WACs
25 that talks about different, you know, the ten different criterias under the WAC, okay. So
26 you have to understand, first of all, this is primarily a soils based test and that's what the
27 criteria is.

28
29 And I do agree with the County when it talks about this is an area-wide thing. The
30 remand is awkward because there's bits and pieces of what should be an area-wide
31 concept, but that doesn't ignore the fact that you have to use area-wide criteria in
32 determining this remand. It's awkward, but that's what the law says and that's what you
33 need to do. I think the County made a major -- while I support the result of it or I'm
34 willing to accept the split the baby in half result of this, I think the County made a major
35 error of law in how they split the baby in half, which is the parcelization test that they
36 used. According to the statute parcelization is one of the ten criteria, that's one-fifth of
37 what you're supposed to look at, okay, I don't know how you do the math as to what
38 percentage of importance that is in the grander scheme of things, but it's a pretty tiny
39 fraction, okay, and that was the main criteria that they used in divvying this all up was
40 parcelization.

41
42 Now the ten criteria does make references to adjacent development, but that wasn't the
43 criteria that they were talking about, was just simply the parcelization, and for those of
44 you who weren't here or don't remember that know that we were supposed to designate
45 these lands in what '91, and between '91 and '94 or something like 15 to 17-square
46 miles of rural lands got subdivided into smaller parcels. So the County used

1 parcelization as their main criteria. And I'm not saying it's not a criteria, but it's about,
2 what, three percent of what we're supposed to be looking at and the County used it as
3 the main criteria.

4
5 What I think needs to be looked at is what's the use and to me the best definition of use
6 of actual use of these lands for resource purposes is the sworn affidavits many of the
7 people in this room had to file to get a tax credit which says I hereby swear that I'm
8 using this land for resource use, ag land generally, sometimes forest land to get the
9 current use or sometimes called land use tax credit. Okay. And the prior growth board
10 decision just was incredulous that anybody who got the tax credit could then stand up
11 and say, yes, I know I signed a sworn affidavit so I could get this tax credit that I'm really
12 in resource land, but I'm going to tell you today I'm not because I want to have my cake
13 and eat it too. I think that's the A number one criteria you should be looking at. You
14 should be looking at the percentage of soil types. You should be looking at parcel size.

15 It's already in the record that the County's deemed 20 acres to be the minimum amount
16 necessary to really be a functional resource land site, I don't see anything in the record
17 that changes that.

18
19 And the fourth is actual use, and here I got to talk about our dear friends at the DNR
20 that even though they're using the land for commercial forestry purposes on some of
21 these parcels still want to have it for development use, and what I'll do is apply these
22 criteria just quickly through what's there. And if you apply these criterias, the main
23 criteria you'll see that about 80 percent of the parcels that are before you should actually
24 have been designated Resource if you apply these four criteria as the main criteria. It
25 really bothers me that people are coming here and they on one hand want the tax credit
26 for resource use, they want the buffer sizes for resource use, but they want the
27 development profits from development use, to me that's hypocritical and I think the
28 people that come here today and say I'm not using my land for resource purposes but I
29 have a signed affidavit with the County so they can get the tax credit for resource uses
30 are committing tax fraud and welfare fraud because that's really what's going on here.
31 It's one way or the other. Either this land is resource land and you get the bundle of
32 sticks that come with that, which is the larger lots, the tax credits, or you have the
33 smaller ones, but pick one and stick with it.

34
35 So if you go through the criteria on the first page, the first, second and all the ones at
36 the bottom of the page meet the criteria that I'm talking about. On the second page the
37 first one, two, three, four five, six, seven, eight parcels meet the criteria, at least what I
38 would consider criteria for resource land. And that includes the State land that I just
39 have to single them out, they're 80 acres of a current forestry operation that don't want
40 that is apparently owned by the State, I believe it's DNR, that the DNR doesn't want
41 their land zoned forestry even though it's 90 some odd percent prime forest land and 60
42 percent prime ag land and used for forest purposes.

43
44 HIGBIE: There are two sets of spreadsheets and I'm not sure we're all working off the
45 same spreadsheet.

1 KARPINSKI: I'm using the one that says "for all parcels reviewed."

2
3 HIGBIE: That's B2 in your exhibit.

4
5 KARPINSKI: You know, and there's ones that I'm not concerned about. On the first
6 page there's a number of smaller parcels, three acres, under one acre, I'm not, you
7 know, even I with a straight face is not going to say that that should be designated for
8 resource use, I'm talking ones that are either greater than 20 acres or they're
9 contiguous property ownership, you know, there's two 19-acre parcels next to each
10 other that total greater than 20 acres. On the third page I don't have any problems. On
11 the fourth page, if you look at it there's one, two, three, four, five, six, seven, eight
12 parcels that are all getting the tax credit but don't want the burden that goes along with
13 that of the resource land designation, and there's another parcel, a 36-acre parcel,
14 that's in forestry operations that meets the -- that's like 65 percent forest lands that I
15 also think meets the forest designation. You go on to the next page, again there's one,
16 two, three, four, five, six, seven, eight parcels, again people are getting the tax credit,
17 you're having 95 percent resource land, a hundred percent in another case, and for
18 some reason we're not designating these for resource lands largely because of the
19 three parcelization rule when parcelization is again one-tenth -- one-fifth of the legal
20 criteria, two percent, okay. And on the last page there's two more parcels about, one 97
21 percent resource land, the other between the two parcels about 70 percent resource
22 land get the tax credit, over 40 acres not being designated.

23
24 You know, I understand this is hard, I understand a lot of people don't understand this,
25 and I understand that nobody likes their property to be downzoned, this is land that
26 should have been designated resource land to begin with, the County made a mistake
27 which is why we're here. The County has made a compromise. They've made in my
28 opinion a fairly generous compromise because I look at the legal criteria and their two
29 percent solution, if they're focusing on two percent of the criteria, let them get to half
30 and half. And I desperately want this thing to be done. I mean I've been, we've been,
31 fighting this, and I agree with the County that this has gone on for a long time. In the
32 greater scheme of things we got a new growth management plan coming out, there's a
33 lot better use that everybody can be doing with this. And I understand that this is an
34 important issue to the people who are here, it's a very important issue, and I don't want
35 to minimize that, but I'm just willing to say that I'm willing to take the half and half
36 solution that's been proposed by the County even though I don't agree with the criteria,
37 I don't think it even comes close to meeting the criteria just to get this issue done, but if
38 we start changing what we're doing to reduce this cut the baby in half solution, then
39 there's going to be problems and this issue will keep on going on.

40
41 I agree with Mr. Moss' comments that says that the County doesn't have or you don't
42 have a lot of discretion here, that meets the statutory designation of resource lands you
43 must designate it. It's not, you know, you can make an argument with a straight face
44 should this be industrial or commercial or residential, if it's resource lands you have to
45 designate it. I disagree with Mr. Moss that says we need to look at the effects of this.
46 The law says we have to do it. It's unfortunate that, you know, this is going to have

1 effects one way or the other, but we're not here to decide the individual aspects of
2 people, we're here to decide whether the law is being followed. I do agree with Mr.
3 Moss that we needed to do a better job of protecting these resource lands, we, basically
4 we designated them with 20 acres and we left them alone, we didn't deal a lot with
5 some of the edge issues to try to prevent incompatible development around these
6 things, which I hear for a lot of people who want to farm has been a big issue, so I think
7 there's more that we can do. I think it might, I think your way of solving our problem and
8 mine may be diametrically opposed in terms of how we deal with that, but I do agree
9 that we can provide more protection for the people who really do want to use these
10 lands for resource purposes. And, again, any discussion of profitability has to relate to
11 the criteria that I just spelled out for you because those are basically all the legal criteria.
12 And this is just like a Jeopardy, it's got to be in the form of one of those criteria and I
13 don't see profitability really coming in on a lot of those criteria very much. I think the
14 main issue here is soil types and I think when you look at soil types in the affidavits
15 regarding what the use of the property is, I'd probably say 80 to 90 percent of the
16 property should be designated Resource. And that's all I have. I know you got a tough
17 decision before you. Thank you very much.

18
19 LEIN: Any questions of Mr. Karpinski?

20
21 MOSS: Yes, I do.

22
23 WRISTON: Do you want to go first?

24
25 MOSS: Go ahead.

26
27 WRISTON: Well, I just have a question on your tax issue. I mean you were just talking
28 about profitability relating to criteria and it may be better, maybe, for Rich or Jim or
29 someone to answer the question, but I got to refresh my memory on how profitability
30 relates to the, oh, the tax issue, the hypocritical people taking advantage, having their
31 cake and eat it too tax, what do we call it, the --

32
33 LOWRY: Current use.

34
35 WRISTON: Current use, yeah, how does profitability relate in that? Is there a
36 requirement that they actually make money?

37
38 LOWRY: Depending upon the size of the parcel, yes.

39
40 WRISTON: What's that?

41
42 LOWRY: I don't remember the specifics, but depending upon the size of the parcel
43 there is a requirement.

44
45 WRISTON: But not that it be long-term commercial significance and, I mean, I'm having
46 a hard time because I know that -- I mean a lot of people go out there, they, you know,

1 they grow hay, they do what they can, like everyone else they do what they can to, you
2 know, to try to lessen their tax burden, I'm sure Mr. Karpinski does it, you know,
3 personally, you know, with your Federal taxes and everything else, I mean you try to
4 donate things and you try to --

5
6 KARPINSKI: I don't have a lot of hay in my backyard.
7

8 WRISTON: I mean everyone takes as much advantage and I have a real problem, you
9 know, the hypocritical, that bothers me, the cake and eat it too, I don't remember, I
10 know people farm hay and they do things and that, you know, they own a lot of land
11 and they're trying to defer their, you know, their tax liability, plus there's provisions for
12 recapture penalty interest, all kinds of things, I mean it's not, that argument bothered
13 me, it kind of hit me wrong and that seemed to be the only, you know, that was kind of
14 like the big thing in your argument and it just it didn't work for me.
15

16 KARPINSKI: Well, let me -- to me the issue is is there a use for resource purposes.
17 Whether they get the tax credit or not, what I'm saying in order to get the tax credit you
18 have to sign an affidavit saying I'm using this for resource purposes, that's the point. It's
19 whether they get the money or not is another issue.
20

21 WRISTON: But then we got to relate it to the commercial significance and we got to
22 relate it to the soils and the different things there, I mean.
23

24 KARPINSKI: But the long-term commercial significance is soils, soils, soils, proximity to
25 population area, and a possibility of more intense uses, and then you get into the ten
26 criteria, okay.
27

28 WRISTON: I just felt like, you know, going through that list and going they took a tax
29 credit, they took a tax credit, they, you know, it just, I don't know, that's just my --
30

31 KARPINSKI: The important point is not the tax credit, the important point is that they
32 had to sign an affidavit which says that they're using it for resource purposes, and then
33 what there is is there's a sliding scale for the smaller the lot, the greater amount of
34 money per acre you have to do. And if they want to come in and base that argument
35 on, you know, economics, that's fine, my point is is the question is it being actually used
36 for resource purposes, that's obviously one of the biggest criteria, because, remember,
37 the Redmond case is a case where they didn't use it for resource purposes at all for
38 decades, okay.
39

40 WRISTON: No, I understand, it's just when they sign the affidavit --
41

42 KARPINSKI: So to me a sworn affidavit saying, yes, I'm using it for resource purposes I
43 think is some of the best evidence of use and productivity, soil types, all that sort of stuff
44 because there's a sworn affidavit that says, yeah, this is resource land.
45

46 WRISTON: But it's, no, they're saying they're using it, they're saying they're growing

1 crops, they're not saying it's productive, they're not saying that it's anything else other
2 than --

3
4 MOSS: Jeff, those --

5
6 WRISTON: You want to go?

7
8 MOSS: Yeah, I do want to step in here. I think you've hit the nail on the head. John, I
9 think you're, you know, let's say from the outset that I think your use of the word
10 "hypocritical" is a little strong. I sat through all the same hearings that you sat through
11 and I never heard anybody say what you just claimed that they said. I heard a lot of
12 people say that their land is not viable for the use that the County is trying to put it into,
13 they didn't say it was not in that use. Let's talk about the difference between those two.
14 I think you've got it right to some degree that it is the use, current use is the use, there is
15 no income test at all for parcels over 20 acres in size, people only had to say, yes, it's in
16 that use currently. And "in that use currently" may mean that I've got one cow out there
17 grazing 20 acres, it doesn't speak to the issue at all of economic viability, whether
18 somebody is able to make a buck off of that.

19
20 When this current use taxation program came into being, it was put into being because
21 it was clear that many people would be taxed off their lands if they were not taxed at the
22 use that it was currently in. People were encouraged to go into that program. Anybody
23 with 20 acres was actively encouraged, they had no income requirements at all. As a
24 matter of fact the income requirements on parcels even less than 20 acres are very
25 infinitesimal. Depending on the year that it was put into current use, the maximum
26 gross earnings, we're not talking about net earnings, are \$200 annually per acre. And if
27 the land was put in prior to 1993 I believe it's only \$100 per acre.

28
29 Now I don't think that it's hypocritical at all of people to come before this Board and say,
30 listen, I may be farming this land, but it is not economically viable for that purpose. To
31 tell somebody who's cutting, tell somebody who's cutting a ton and a half of hay per
32 acre per year that that's an economical use of that property is ludicrous. Nobody can,
33 nobody can make a buck at that. And yet to me all that's happening out there is that
34 people are certifying that, yes, in fact, you know, I am in that use, and what they're
35 really certifying to is that this is no use at all, that is it's empty space, I've got a cow on it,
36 I'm mowing it once a year or having a neighbor cut it for hay, I don't find that hypocritical
37 at all. And I do think that that term was a little strong.

38
39 KARPINSKI: If I can respond to that.

40
41 MOSS: And I hope that everybody understands the difference between certifying that
42 you're in that use and arguing on the other hand that you don't meet any kind of an
43 income requirement to be considered "of long-term commercial significance" for that
44 use.

45
46 KARPINSKI: And, Lonnie, actually I agree with you, you know, I sat through a bunch of

1 those hearings and at least my recollection, and granted the hearings were X amount of
2 time ago, that people were standing up and saying my land isn't resource land. Okay.
3 I think it's perfectly acceptable if people want to come in here today and say, yes, my
4 land's resource land, yes, I get the tax credits and, no, here's my individual economic
5 circumstances, there's a Superior Court judge's opinion that says you can do that. I'm
6 not -- I'm saying the people who come in and say I don't have resource land are the
7 people being hypocritical. The people --

8
9 MOSS: Actually I've never heard anybody say that, John.

10
11 KARPINSKI: In my recollection at the prior round of hearings --

12
13 MOSS: Or that I'm not in that use. What I've heard people say is, yes, I don't have
14 resource land not by this standard, these criteria.

15
16 KARPINSKI: Well, maybe our recollections differ over time, but that's the --

17
18 MOSS: They probably do then.

19
20 KARPINSKI: -- that's the problem I have. But if people want to come in and say I
21 shouldn't be considered resource use because of economics and have the criteria to do
22 that taken into consideration that we're trying to be dealing with things on an area-wide
23 level and taken into consideration of the statutory criteria, I think that's perfectly
24 appropriate and I do not consider that to be hypocritical at all. I just want you to
25 consider that. But it was my recollection at least at the prior hearings there was a lot of
26 people who stood up at the hearings before and said, hey, I don't have resource land
27 and I don't, you know, and I have never engaged in resource activities and, well, here's
28 the affidavit. At least that's my recollection. And we don't need to belabor that point
29 because if people want to talk about the site-specific stuff, I don't have a problem with
30 that.

31
32 MOSS: John, so we can leave on a point of agreement here --

33
34 KARPINSKI: I'm trying to work on that.

35
36 MOSS: So we can leave on a point of agreement, I appreciated your comments on
37 parcelization, and I too agree that merely because a parcel is 40 or 80 acres in size
38 doesn't mean that it ought to be designated as resource land. Thank you.

39
40 LEIN: Any other questions of Mr. Karpinski? Thank you, John.

41
42 KARPINSKI: Thank you.

43
44 LEVANEN: Carol Levanen, 17614 NE 299th Street, Yacolt, Washington. The
45 comments he's making about current use are interesting because we had two 20-acre
46 pieces that we back in 1975 I believe it was put it in current use, and at the time we put

1 it in we were running a couple head of cattle and a few chickens, a few animals like that,
2 but we were a young couple who just bought property and the property was expensive
3 for us and it was hard to pay the taxes on those 40 acres, so we went to the County and
4 they basically told us that this was setup to provide an avenue for open space areas. If
5 you're not going to be planning on doing anything with your land for the next ten years,
6 then it, then it's an opportunity for you not to have to pay the taxes until after the ten
7 years and we thought by that time we should be established on the property and we
8 should be able to afford the taxes.

9
10 So as years went by, the land just always stayed in, it was originally put in in agricultural
11 land because it was just open fields. Through the years the trees reseeded themselves
12 naturally and we wound up with -- when we did take it out of current use we wound up
13 with it being called forest land instead of agriculture land. When we took it out of current
14 use that's a deferment, that's not a tax savings, okay, you just wait to pay your taxes on
15 the piece of property. But the thing is is when the value of the land goes up after, when
16 we started our -- I mean what the land, 40 acres, was \$4,000, now 40 acres is close to a
17 million maybe, who knows, I mean we just got 35 acres assessed for \$600,000, so
18 when you're talking 40 acres we're talking a lot of money now, and when you take your
19 land out of current use you have to pay the last -- we paid the last seven years back
20 taxes.

21
22 Well, when the land increases in value so do the taxes so we had to pay all those back
23 taxes when the land was valuable now for the last seven years, plus we had to pay ten
24 percent interest on that tax that we didn't pay over the time we had it in current use and
25 we had to pay a penalty because we didn't give them two years' notice, and when we
26 figured it all out and calculate it out we paid way more in taxes if we had left it -- that
27 when we had it in current use than if we had just paid on a yearly basis. But there's an
28 advantage for it for those people who are going to keep the land in that way for many,
29 many years and do expect to get a very big return on it if they ever have to sell it, but in
30 our case we just got tired of regulation, we just decided we're taking this out of current
31 use and we did, but we wished we had paid the back taxes. So when he's talking about
32 people getting some sort of tax savings it doesn't happen, it just simply doesn't happen.
33 And now they -- the cost of lands are so high now and the values of lands are so high
34 now that people who have it in current use they're taking a big chance, when they sell
35 their land they may not get anything out of it.

36
37 So that being said I'd like to give my testimony. Okay. I was on the agri-forest focus
38 group and I'm going to try to give you -- a lot of you folks are new to this Board and this
39 began back in 1993, that's ten years ago this was all came about. But anyways, in
40 deciding if resource land existed in the former agri-forest zoning, the agri-forest focus
41 group had to look at the GMA criteria for such lands, but also had to try to look at what
42 "rural" was in Clark County. We were given charts called the Agri-Forest Task Force
43 Criteria Checklist. And I have a packet of all of this and do you want me to pass it out
44 now so you can see what I'm talking about or look at it later?

45
46 LEIN: That would be good now.

1
2 LEVANEN: The other thing is I turned in testimony about two weeks ago regarding
3 particular specific parcels and I haven't seen that out here. I don't know if you people
4 got it or what happened to it. I sent it, I called the Commissioners' office and asked
5 where I would send this to so I could get it to the Planning Commission and the Clark
6 County Commissioners but I don't see it. I didn't bring it with me in my notebook, I
7 should have, I just expected it would be here so and that was about two weeks ago I
8 mailed that. Okay. To continue on, I'm sorry, the agri-forest focus group had to look at
9 the GMA criteria for such lands, but also had to try to look at what "rural" was in Clark
10 County. We were given charts called the Agri-Forest Task Force Criteria Checklist.
11 The charts had criteria for rural lands, agricultural lands and forest lands, and within that
12 packet you'll see those charts that we used. The majority of the items on the list were
13 taken from the RCWs and WACs of the GMA. A copy of those charts is included in
14 your, for your review. A publication provided by the Washington State Department of
15 Community, Trade and Economic Development titled Defining Rural Character and
16 Planning for Rural Lands, Washington State Growth Management Program, was also
17 used by the members to formulate a definition of "rural" according to GMA standards.
18

19 In this document various recommendations were given to aid counties in zoning for rural
20 land. Highlights of the booklet follow. Now I'm not going to read all these highlights,
21 you have a copy and it's kind of laborious for you, it's a large paragraph, but I'll just
22 move on here. It just kind of gives you a flavor of what the State intended in the GMA for
23 rural designations because that was something that the focus group had a tough time
24 deciding. Well, okay, if we're not going to call it a "resource" land, what is our criteria for
25 "rural." After reviewing GMA recommendations for rural, forest and agriculture criteria --
26 rural, forest and agriculture criteria the focus group made its recommendations. The
27 result of all that work is what is currently in place today. There were times that a
28 consensus was difficult for the focus group because some of the members felt that the
29 parcel was better suited to a larger lot that could be clustered. It was the focus group's
30 understanding that was the next step in the process. The other members weren't sure
31 that clustering would be adopted by the Commissioners, therefore wanted the zoning to
32 be Rural 5 or 10. The cluster ordinance was not adopted as proposed.
33

34 Many of those members relying on the clustering concept now say they would have
35 vote, they would have voted for smaller rural lot sizes if they had known this
36 beforehand. No true definition has been given to describe "prime agriculture." This is
37 primarily -- this is a primary requirement for designation of agricultural lands according
38 to the Growth Management Act. Very few parcels proposed for change fall into that
39 category. The Schumacher parcel is earmarked for agriculture but has zero percent
40 prime soil. On the other hand, there is much discussion over forest soils even though
41 the GMA does not designate soils as a prime indicator of the ability to manage forest
42 land for long-term production. Wild grass reseeding itself in an open field does not
43 make agricultural land and Douglas Fir naturally reseeding a steep slope does not make
44 a viable tree farm under the GMA. For both resource designations many other criteria
45 must be met. In reviewing the publication, and I have lots of these as you can imagine,
46 Soil Survey of Clark County, Washington, and that is through the Soil Conservation

1 Department, many notable items demonstrate that this area is certainly not agriculture
2 country. Cool temperatures, rainfall, short growing season, poor soils, topography,
3 plant mortality, plant competition, equipment limitations --

4
5 LEIN: Carol. Carol, could I ask you to slow down a little bit, please.

6
7 LEVANEN: I'm sorry, I do that all the time.

8
9 LEIN: Thank you.

10
11 LEVANEN: I'm sorry, she knows I talk too fast, but we used to have three minutes, you
12 know. Okay. Cool temperatures, rainfall, short growing season, poor soils, topography,
13 plant mortality, plant competition, equipment limitation, erosion hazard, windthrow
14 hazard, drainage, depth of soil and other factors all discourage a viable long-term
15 commercial resource activity in both agriculture and forest. Judge Poyfair's decision on
16 April 4, 1997, Conclusions of Law, this is the original 36,000 acre illegal status of
17 agri-forest that had to be remanded to the focus group states: The Board erroneously
18 interpreted and applied the GMA when it failed to require the agri-forest focus land,
19 resource land, excuse me, meet the statutorily mandated definitional criteria for
20 resource lands. Furthermore, there is no substantial evidence in the record to support
21 the designation of agri-forest lands as resource land under the GMA. And, Number 7,
22 the only requirement for rural areas in the GMA is that growth in rural areas not be
23 urban in character. While the GMA contains no restrictions on rural growth, it does
24 require a variety of residential densities. In addition he states the Board's interpretation
25 was erroneous and the County's decision to follow the Board's lead was unfortunate.
26 The result is a plan that gives little regard for the realities of existing rural development
27 in direct contradiction, contra, yes, contradictions of the terms of the GMA. I have
28 included a 1998 written discussion from CCCU attorney, Clark County Citizens United
29 attorney, Glenn Amster to Clark County attorney Rich Lowry regarding GMA resource
30 land designation. He states: The relevant terms are defined with more particularity
31 than any other elements of the GMA and DCTED has specified that these defined terms
32 are to be used without change by the local governments. And I have included his whole
33 correspondence to Mr. Lowry.

34
35 The State is recommending the Kullberg parcel be changed from R-10 to Forest 40
36 based upon soils, contiguous ownership and current use taxation and adjacent to other
37 Forest Tier II sites, but the GMA does not say that is how forest land is designated. In
38 the GMA and WACs approximately 12 different items must be considered when
39 designating forest resource land. In the case of agriculture land the same is true. One
40 criteria to be used for forest land is a use of the Department of Revenue private forest
41 land grading system. This system indicates what the particular, now I looked this up,
42 this took me a while to find, you've got to appreciate this, this system indicates what the
43 particular value of timber in a particular area should be. When the trees, and now this is
44 something that we never did research prior to this and I always wondered exactly what it
45 is, but this prime soils is for agriculture, this is for forest lands, this system indicates
46 what the particular value of timber in a particular area should be. When the trees are

1 harvested, and this is the only time that you really know this, when the trees are
2 harvested the actual market value of the cut trees indicate if the land produces trees of
3 poor, average or good value. Land that produces poor value trees is not good forest
4 land.

5
6 Trees harvested from Mr. Kullberg's Rural 10 acre area were of poor value. One of the
7 reasons for this is because the ground is steep and rocky. I have enclosed a copy of
8 the grading system for your review. Markets also play a role in determining long-term
9 significance. Just as in agriculture crops, forest crops change according to the market
10 demands. In 1970 Douglas Fir was the desired crop, but now other types of trees bring
11 a better price. So when the staff indicates that prime forest soils were used for
12 evaluation and designation, just what is "prime forest soils." Most of the rural land in
13 Clark County would be better utilized if it were zoned in a rural category which allows
14 agriculture and forest activity. The landowner should not have to be dependent on
15 making a living wage on land that is labor intensive, too expensive and not suitable for
16 long-term commercial production of a resource. And I have a little footnote down there
17 if you can read it, it says: America's forest land base is still more than two-thirds the
18 size it was in 1600. This in spite of all the harvesting that has been necessary to house
19 the nation, warm its citizens and drive its early industrial engines. This too in spite of all
20 the losses to forest fires, insects and diseases. And I'm sorry, I'm done now. Thank
21 you. Do you have any questions?

22
23 LEIN: Any questions of Carol? How many more people want to testify on general?
24 Two. Why don't we take a break right now and then we'll come back. Okay. We'll take
25 a five-minute break.

26
27 (Pause in proceedings.)
28

29 LEIN: We'd like to reconvene the hearing. One of the things we'd like to do is, we'll
30 continue on, first of all, with the general testimony, but with everybody here what we'd
31 like to do is try to get through all the testimony tonight. We will not go into deliberations
32 or make any kind of decision tonight, but that will save you the time of having to come
33 back again next month. So we appreciate your waiting at this point. So, Mr. Ek, do you
34 want to start, please.

35
36 EK: Mr. Chairman, Commission members, my name is Cal Ek, address is 9101 NE
37 207th Circle, Battle Ground, Washington. As a land use consultant working mostly with
38 rural landowners in Clark County I wanted to put a few of my thoughts on this matter
39 before the Planning Commission. Rural landowners in Clark County have suffered
40 serious loss of value from the massive downzoning which occurred during the last major
41 revision of the comp plan. I don't think it's appropriate to further restrict rural
42 landowners, landowner options with yet another downzone. For many of these
43 landowners their land is their most valuable asset and a downzoning will seriously hurt
44 them financially. Unfortunately the County has never properly defined "resource lands"
45 in the context of whether the land can provide a reasonable family wage job. If you
46 can't earn a living from resource land, then the landowner should not be penalized by

1 having development options taken away.

2
3 I have looked at the maps for the proposal before the Commission. In my opinion,
4 which is based on a pretty good understanding of the soils and the resource capabilities
5 of Clark County, I suggest to you that none of the proposed sites are on soils which are
6 so valuable for resource use as to need zoning designation. Specifically, some of the
7 soils selected for tonight's consideration are actually on Cove and Olequa soils, it's
8 preposterous to think that anyone would designate these sites as needing resource
9 protection. These are some of the worst productive soils in Clark County. Other sites
10 are on Olympic or Hesson soils. These are moderately good tree growing soils, but
11 they are far from being prime resource soils. For these soils the best growth occurs
12 with hazel brush, vine maple and salal. As you know, these are not marketable
13 commodities. There are other things which could be said about the specific sites
14 selected such as having adjacent rural and residential uses which may actually hamper
15 future harvesting of commodity crops from the lands if crops could be grown, but what I
16 really wish to do is to propose that the credibility of the County's proposal has been
17 undermined by some very serious flaws, specifically the inappropriate soils for resource
18 uses. This makes me believe that the County staff did not visit the sites prior to
19 recommending a change in status. Without a site visit, a site downzone should be
20 considered totally arbitrary and should be thrown out.

21
22 Second, spot zoning. It should be apparent to the Commission that the County's site
23 selection represents a classic example of spot zoning. Any time this occurs we need to
24 ask whether the proposal is being made as a vindictive action against the landowner.
25 We hope that this isn't the case, but it sure looks suspicious, especially if the sites were
26 not visited by the staff which made the selection. If spot zoning is apparent, the entire
27 selection should be thrown out. For these reasons I recommend the Commission
28 disapprove the redesignation of these rural lands to resource land zoning. Thank you.

29
30 LEIN: Any questions of Mr. Ek?

31
32 BARCA: Yes, I do have a question.

33
34 LEIN: Mr. Ek, we have some questions.

35
36 BARCA: The definition of "resource land," whether the land can provide a reasonable
37 family wage job?

38
39 EK: That would be an underlying, that's not a legal definition, but that would be -- and I
40 did attend a lot of the hearings in the mid '90s related to this topic, I know that like John
41 Karpinski mentioned there are certain legal definitions and Carol was kind enough to
42 bring a lot of those forward, but the bottom line is that if you can't make a living or a
43 reasonable living or return on investment on the land, there is absolutely no reason that
44 it should be designated as a resource land.

45
46 DELEISSEGUES: Yeah, I've got a question just for clarification. Are you

1 recommending disapproval of all of these designations?

2
3 EK: Yes. Dick, thanks for the question. I'm recommending that the entire study is
4 flawed and as such should be thrown out.

5
6 LEIN: Any other questions? Thank you. Is there anyone else wishing to make general
7 comments. Please. These are not site-specific yet.

8
9 MATSON: I'm John Matson from 11430 NE Ward Road. I would like to say that the
10 lady that spoke first that spoke pretty much on the moral issue that's the obligation of us
11 all I can't cover it better, but I would like to speak to some issues that then bring to the
12 moral issue. As far as government regulation, we're saying that we need to set this land
13 aside because the government is saying that this is good forest land and it's an
14 economical use, when the government starts regulating land and then we're already
15 down the wrong track. We know, we can see what Russia has done with theirs, they've
16 got the richest resources in the world and they can't feed their own people because
17 they've taken the property rights and they've broken the backbone of the people and
18 that's where the resources in our income comes from is the ownership of property and
19 that's one thing that keeps the country free is the ownership of property. And it's
20 supposed to be unalienable rights, that means unalienable, so that man has someplace
21 that he can produce something that he can live on, put shelter over his head and food in
22 his stomach.

23
24 As far as saying that we need 80 acres for forest unless it's been in the family and it's
25 big trees and they can harvest it and he's got all the bills paid, he can probably make a
26 living on 80 acres. As far as the designated 20 acres for a farm, I've got 25 acres,
27 they've got me on Ag 20, all around me there's two and a half acres, there's acre and a
28 quarter, there's 5 acres and I'm 20-acre minimum, I can't even give a piece to my kids.
29 One mile down the road, probably less than that, straight through from the corner of my
30 property, they've got 6,000-foot lots, it isn't fair. Because and I they say, well, we need
31 to keep our farm ground, well, I ask any of you to go and buy a couple \$50,000 tractors,
32 a \$10,000 plow, a \$12,000 baler, a \$15,000 mower, a \$3,000 rake, a \$3,000 tether, a
33 \$10,000 truck, a hay loader, build your barn, plant your crop, buy your feed or seed,
34 fertilizer and your fuel, raise your crop and wait for the weather to come and harvest
35 your crop on 20 acres and you feed your family and make a living, pay all your bills and
36 then put a roof over your head and food on your table, I'll take my hat off to any of you.
37 It's impossible.

38
39 And if it's that then we need -- we should let it. Then we say we don't have enough
40 parks for people, we're crowding the people down here in a certain area, well, let them
41 build out there on two and a half acres. A lot of it is a septic tank will work on an acre
42 and a quarter, excellent, on most of that two and a half and five it will, it will work.
43 There's water, we've got lots of water in Clark County, and west of the Cascades there's
44 no shortage of water. Sure, some years maybe there's we're a little short, we need to
45 conserve on water, but we generally have a lot of water. So let the people use their
46 land so that we can all live in a park, they can live in a park, the kids can grow, grow up

1 and have a place that they can run and play. And it goes back to tying into what they're
2 trying to run the little businesses off the County, out of the County, say that they need to
3 be down on a commercial piece of property, they're going to regulate them on their 5
4 acres or 10 acres. I know several guys that have a little business, their kids have grown
5 up, have had vocational training there, the neighbor kids have get off school, they walk
6 across the road and they started out washing the trucks, loading, unloading, sorting
7 some of the equipment, they've had vocational training. We've got a good vocational
8 training system in Clark County and we need to keep it that way.

9
10 This is some of the morals that the first lady spoke on that we're all obligated to take
11 care of, take care of our neighbor. If we're going to designate and say that this has got
12 to be farming and it's got to be ag, it's available if somebody wants to go out there and
13 do it, let them buy it, don't make them and regulate it and take the option away. As far
14 as taxes, John Karpinski say he said a lot of these people just don't understand, John
15 Karpinski doesn't understand, he don't even know how to work for, hasn't, probably has
16 never worked for a living. You go out and make a living, you go out there and run a
17 construction business, a farming business. We've got a farmer here, but believe me
18 there ain't very many here that would follow his tracks and now you're going to
19 downsize it so he can't sell it off. And there's most of the young generation they're not
20 going to put up with the regulation, they're not, they can't put up with the fuss of the
21 neighbors. This isn't ag land really anymore.

22
23 Sure, we've got some, we've raised lots of crops, but if those 5-acre pieces, you could
24 see where there's more timber grown, probably more product grown on 5-acre parcels
25 or two and a half acre parcels than there is on a lot of these 20 and 40-acre pieces.
26 You go drive around the County and see how much of that, those parcels, are
27 unproductive. They're, like I said they're usually growing blackberries or vine maple.
28 You get a 5-acre piece, the people plant trees in there, they have a garden, maybe have
29 a cow, a horse for the kid, it's productive. This is what we need in Clark County. Talk
30 about being -- if we we're saying we're going to run out of farm ground, we're not going
31 to run out of farm ground. If we pay the farmers a fair amount, they could raise more
32 than -- we've got surpluses right now, and two years ago we paid the American farmers
33 for 20 million acres to not raise a thing, set it idle because we had such a surplus, so
34 there's plenty of farm ground.

35
36 And if people can't live out here, they're going to live somewhere. And I've told people, I
37 said, well, yeah, they say, well, we're going to run out of water or (inaudible) resources.
38 I said, well, yeah, that's nice, don't let them live out in the county because we're going to
39 run out of the water because, you know, they don't drink as much water and they don't
40 use the bathroom as much if they live down in an apartment so maybe we'll save some
41 resources. But anyway, we're obligated for the moral future of our country and those
42 are some of the things.

43
44 As far as timber, you say, well, we're trying to make, make these people grow timber out
45 there so we don't run out of timber. As we heard, we're growing more timber today than
46 we were probably 50 years ago. There was, when they had the forestry conference in

1 Portland when, right after Clinton was elected when there was a real stalemate,
2 stallmate, stalemate or the logging was just at a standstill and they thought, well, maybe
3 this will, they'll get something resolved. Well, there was a young man from Shelby,
4 Montana that was at the forestry conference that kind of ran the -- they had little
5 meetings afterwards, he ran it, but he said we have 10 billion board feet within 10 miles
6 of Shelby, Montana and we can't touch it because it's tied up because of regulation, it's
7 going to rot, it's infected with the beetle and it's just rotting. He said if it isn't logged off
8 in a few years, it's going to be useless. This is what we've got all across the country.
9 We've had forest fires that's burnt, there's been no buffers left on the creeks when the
10 forest fire went through, there was no animals left, talk about a waste, if it would have
11 been managed like it should be, which a lot of these people here are managing lands, it
12 would be done, but when the government goes in and starts regulating, all we do is
13 have one big tax burden and the job doesn't get done, free enterprise will get it done.
14 Sure, we've made a lot of mistakes but we've tried to learn, and I think all of us have
15 learned, there are mistakes we've tried to improve. And we have a good country, I don't
16 think any of us will say we don't have a good country, but we could have a lot better if
17 we'd all work together, you know, and help each other to improve and protect these
18 neighbors' property and living instead of try to take it away so they can't use it.

19
20 As far as taxes, you know, my wife's sister's husband said the only way -- if you put it in
21 open space the only way you'll come out on it is that money that before you put it in
22 open space, if you was paying say \$1,000 taxes and you got it cut down by putting it
23 into open space to \$150 a year he said the only way you're going to come out in the
24 long run is you have to put that \$1,000, every year put it in the bank so you get a little
25 interest. So by the time you go to sell your place you'll at least have made some
26 interest on that money and you could pay your taxes, because by the time you pay that
27 seven years back taxes plus the penalty and interest, you've got quite a bill. And
28 there's many of the family that have had to sell the farm, had to sell their place, that
29 would have liked to stayed there and stayed farming, but they've had to sell it to pay the
30 taxes because they couldn't afford it. So this is just a few of these. They say, well, you
31 got to make a profit, you know, like I said, you make a profit on 20 acres and feed your
32 family, you know, you won't do it, but it would be a lot nicer if more people could use it
33 and it would probably be more productive in the long run.

34
35 So I just ask you, gentlemen, to think of what you're doing when you're taking away the
36 rights of the people that own the land, that have worked hard. I know one farmer here
37 that's worked hard all his life and probably, sure, he's got probably a few dollars, but
38 believe me, he hasn't made the money that he should have made for the hard work and
39 the long hours that he's put in. The only chance he's got is maybe to be able to sell a
40 piece off to get a little return so he can start maybe relaxing a little bit at the end of his
41 life when he should be instead of have to work till he can't work anymore. So I'd just
42 ask you to consider the good of the community that we've, that this country's been set
43 up under the Constitution that we have in the United States of America. Thank you.

44
45 LEIN: Any questions of Mr. Matson?
46

1 DELEISSEGUES: John, I don't see any ownership that you're involved with in this
2 issue; is that correct?

3
4 MATSON: No, I'm not involved in that.

5
6 DELEISSEGUES: So I appreciate your remarks, especially since you're not --

7
8 MATSON: I just spoke just generally on it because I'm not affected at all by this line of
9 them.

10
11 DELEISSEGUES: Thank you.

12
13 LEIN: Anyone else wishing to testify?

14
15 WHITE: My name is Frank White and I live at 25209 NE Landon Road in Yacolt. I don't
16 have any property that's directly affected by this, but I do have property that was
17 affected by the previous downzoning. In starting I would like to comment on, again on
18 the young lady that led off here in reference to the lawsuit, there were mistakes made
19 and the mistakes have been paid for, but unfortunately they're being paid by the wrong
20 people, the people that made the errors, the County staff, are going off scot-free, it's the
21 taxpayers that's picking up the bill and I think that's the major injustice involved in this
22 particular instance.

23
24 What I'd like to say about the farming in Clark County is that if you want to do it, you
25 need to have -- do one or more of the following: One, you have to spend several million
26 dollars for land and equipment in order to have a family income farm. And then next
27 you have to be willing to put in long hours of hard physical work to produce your crop,
28 and in this county you also have to put in substantial time and effort to market it
29 because there are no fixed markets where you can walk down to the elevator and dump
30 your wheat in like you can in the Midwest, you have to spend time and effort to market
31 your crop, then you have to be willing to spend your spare time learning to cope with the
32 -- keep up with and cope with all the ever increasing regulations that reduce a portion of
33 your land that you can use for farming and then make it more expensive for you to farm
34 the remainder. Also you have to shoulder the responsibility or the risk that your
35 regulator, regulatory compliance is maybe not quite up to what your urban bureaucrat
36 thinks it should be and you get socked with a fine that's probably a year's or more's
37 worth of hard labor, your hard labor. If one's willing to do all the above here, then he
38 might net almost as much as if he had went out and invested his million dollars or
39 better, probably if you want to put up a family income enterprise in Clark County you'd
40 probably spend in excess of 2 or \$3 million. You could put that money in the treasurers
41 or CDs or stocks or a combination of that, set back and go skiing and golfing or
42 whatever you're suited and make just about as much or probably more than what you
43 made farming.

44
45 The tragedy to all this is that when you want to get out of that situation you need
46 another a crop of young farmers to come along and be willing to take over your

1 operation. Those people are not available in Clark County today. If they are, they don't
2 have the capital to start with. So where does the farmer go when he's ready to retire.
3 There's no outlet for him. He's stuck with trying to market his farm to a nonexistent
4 market, so what's he do. Can I get an answer from you on that I hope? Any questions,
5 please?

6
7 LEIN: Any questions of Mr. White? Thank you, sir. Anyone else wanting to talk in
8 general. Please come to the microphone, please.

9
10 WIRTANEN: I actually have property also, but I would like to speak in general.

11
12 LEIN: Sure.

13
14 WIRTANEN: My name is Ed Wirtanen, P.O. Box 526, Yacolt, Washington. I'm also
15 president and operator of a small logging business here in Clark County and I would like
16 to just very briefly speak a little bit to the viability of logging and the question of what is
17 resource land here in the county. It seems like that's kind of the issue here tonight, or it
18 was, especially at the beginning, that what is forest resource land and I just wanted to
19 testify that since 1992 I've operated a business here in the county, I work with Jim here
20 on predominantly small parcels, 90 percent 10 acres or less in the county all the way
21 down to one-acre parcels. The small parcels we deal with, Jim with the permitting
22 process, anything over two acres is we deal with the State forest practice rules. I would
23 like to say that just from experience in this past year as far as productivity on small lots
24 in the county, we just harvested over 60 loads off of a 10-acre parcel here in the center
25 of the county. I, just for my own self I don't see why we have to start selecting large
26 parcels in the county. When we look at the map it was already pointed out by Lonnie
27 the dark green shaded area on the fringe of the county, if we're going to start parcelizing
28 areas scattered throughout the area here, it looks to me like we're going to increase the
29 conflicts intention that I run into every day in this county. It doesn't seem like it's a very
30 wise move.

31
32 Also, Carol spoke to the changing of the markets. I think everyone here probably has a
33 mind when you think of forest resource it's the dark green Douglas Fir trees, isn't that
34 correct when you think of a forest. Right now the Alder and the Maple are bringing as
35 high or higher value than what the Douglas Fir is. And I'm sure you realize that Alder
36 and Maple grow on completely and totally different site class than what Douglas Fir
37 does. So now we are changing our definition again of what is "resource land" and what
38 is suitable for resource land.

39
40 And that's about all I had to say today as far as a general comment on it, but I think that
41 for the Planning Commission when you're looking at this issue of what's been brought
42 before you here today I think there's some, there's a lot of different issues you need to
43 take a look at also because for myself I don't see why we can't -- in order to meet the
44 mandate of the GMA why can't we just designate parcels over 5 acres within this county
45 as resource land, end of subject. Thank you.

1 LEIN: Any questions of Mr. Wirtanen?

2
3 DELEISSEGUES: Yeah, I've got one. Did I understand you to say that parcelization
4 was not a good idea so it's okay to downzone it? Is that what you're saying?

5
6 WIRTANEN: No. What I meant was that these examples of how they're, how they're
7 going around the county selecting what appears to be predominantly the largest parcels
8 left in the county, those are the ones I'm saying I don't believe that's a wise move when
9 we, we are in fact, as I testified, using the entire county right now as resource lands, I've
10 made my living since 1992 on it.

11
12 DELEISSEGUES: Okay, I just wanted to clear that point up. Thank you.

13
14 LEIN: Anyone else wishing to speak on a general note?

15
16 REDINGER: My name is Nick Redinger, 16918 NE 88th Street, Vancouver,
17 Washington, I'm currently the Clark County Citizens United president. We had a Board
18 meeting last week and discussed this issue and I think there was a consensus that no
19 one agrees with this downzone. I think instead of talking for Clark County Citizens
20 United I'd like to talk on a personal note. I'm a realtor here in Clark County. I'm also a
21 descendant of a dairy farmer who no longer lives here and they moved to Idaho mainly
22 because this area was no longer a good area to farm. We have a thriving dairy in Idaho
23 and I think that -- you'll have to excuse me, I get anxiety, I can't do this. Sorry. I just get
24 nervous and I can't speak.

25
26 MOSS: You were doing great.

27
28 LEIN: You were doing fine. Anyone else? Okay. Mr. Higbie, do we want to proceed
29 on through the maps, then, a little bit and then we'll take the individual testimony on the
30 parcels?

31
32 HIGBIE: Okay. I'd like to start with Map 1. Map 1 we talked about briefly in our
33 introduction. There are four different areas. Area 8 is an area where we did not
34 recommend a change so I won't, I won't deal with that. Area 9, staff is recommending a
35 redesignation in this area from Rural 10 to Forest Tier II. The parcels are an 80-acre
36 parcel owned by the Uhacz's, and Diamond B Ranch is a 40-acre parcel. The
37 recommendation of the agri-forest group was Rural 10 and the alternate group opinion
38 was Forest Tier II. Our recommendation is based on the critical lands which have over
39 50 percent of the property being critical lands. Parcel --

40
41 LOWRY: Could I interrupt. Given the hour it might make more sense to simply have
42 anybody that wants to testify on this map testify and then when we come back after the
43 continuance we can re-orient you with the staff report.

44
45 LEIN: Okay. Fine. That would be a good idea. Thank you, Rich. With that we'll take
46 testimony from anyone who has interest on any of the parcels on this particular map.

1
2 BARCA: Oh, now you've done it.

3
4 LEIN: Okay. Could we go on to Map Number 2.

5
6 HIGBIE: Map 2 there are four areas that we looked at, two areas where we are not
7 recommending any change, Areas 8 and 9, so I won't go into those. Area 16 is we are
8 recommending for a redesignation from R-5 and R-10. Would you like people to testify
9 on these parcels first?

10
11 LEIN: Or actually any parcel on this map. Okay. Yeah, before we go on. Okay. All
12 right. Is there anyone wishing to testify on any of these parcels?

13
14 MARINIER: My name is Pat Marinier and I live at 32302 NE Kelly Road. It's difficult to
15 know where to begin with my protest to the actions being recommended by the Planning
16 Commission for my personal property. So many things seem relevant to me that are not
17 under consideration by this group of people. I've poured over the documents by the
18 Board and realized that it would probably be impossible for me to say that my personal
19 property does not qualify for designation as Tier II forest land according to the criteria
20 considered by this Board. What I did note while I carefully looked at the map that I
21 received from the County is that my private personal property was one of just a few
22 acres of land that was still in larger parcels. And it just so happens that my cousin, Don
23 Kullberg, has his private personal property in large parcels and that our properties are
24 adjacent to one another. I'm 18 on your maps. Those two pieces of privately owned
25 land make up nearly 500 acres and obviously look like very fertile and choice property
26 to set aside as resource land. Did I mention that these are private personal pieces of
27 property. Did I mention that they have been in our families for three and four
28 generations. Did I mention that as personal private landowners that we have taken
29 exceptional care of our property without guidance from the County.

30
31 Let me explain that my father Henry Pender viewed this property as an investment. He
32 bought these pieces of land during and just after Second World War. It would be easy
33 for you to understand that having suffered through a depression he felt the best
34 investment of his money would be in land, not gathering interest in a bank or paying the
35 stock market, playing the stock market. He borrowed the money to purchase the land
36 from my mother's uncle Henry Hartloo who exacted strict payments and charged a
37 pretty good interest rate. At one point in time my father lost about 40 acres of timber
38 land because he was unable to pay the taxes on it. I can't remember the exact tax
39 amount but it was somewhere in the vicinity of \$25. Once my father purchased the land
40 he spent nearly a lifetime clearing it. His dream was to raise cattle and profit from that.
41 He learned that was a pipe dream. His second attempt to get a greater return on his
42 investment was to plant the fields with grass and to sell it. That was not lucrative either,
43 so he went back to the original crop, timber. By this time these fields were open areas
44 where mice and deer came and destroyed either the root or the top of the trees. Some
45 fields he had to plant twice. He put aluminum foil around the bottom of each tree so that
46 the mice would not gnaw on them. Was this not proof that he was looking for monetary

1 return on his land. As far as I can remember the only person whoever helped my father
2 plant a tree was my husband. This was my father's personal private property. By the
3 way, this purchase was made on the salary of a rural mail carrier.
4

5 What am I doing with my personal private property that I have been so fortunate to
6 inherit from my father, every place that a tree can be grown there is one planted. I have
7 not retired so I'm not able to tool, to use his words, around the property every night as
8 he, after dinner as he did on his tractor once he retired. However, this land was to
9 provide me with retirement. Now it is stolen from me because of three people who
10 wrote a minority report that said my personal private property fits a criteria. That means
11 my personal private property will now be taken from my present ability to divide land into
12 10-acre parcels and be given a Tier II Forest Land designation. I also will be unable to
13 divide the land into anything else, anything less than 40-acre parcels. Is that not
14 stealing my land. Is that not devaluing my land by probably at least half.
15

16 Another fact that is useful to consider is that I live on Kelly Hill. Our community just
17 spent thousands of dollars fighting the opening of the Yacolt Mountain Rock Quarry.
18 We lost that case recently when the County Commissioners did not take the
19 recommendation of the Board and reversed the decision to not let the quarry open. My
20 property borders one of the most dangerous curves on Kelly Road. As recently as two
21 summers ago there was a death there when a car didn't make the turn. My father pulled
22 many cars out of the ditch in the middle of the night with his tractor. What kind of
23 dangers will the truck drivers experience when driving that road day after day. Will the
24 County fix the roads when they are ruined by the weight of daily truck use. Will I lose
25 my well water. Will my grandchildren who are my neighbors be frightened or harmed by
26 the storm of trucks roaring down our narrow and very dangerous hillside. Will we lose
27 our countryside peace and quite life-style. When I'm gone who will want that property
28 that has a possible 400 plus trucks a day rumbling by it. Though I would like not to be
29 vicious I can't help but think that when the thousands of trees that are planted are
30 mature someone will find an endangered species living in or among the timber and then
31 not let the timber be harvested.
32

33 One of the worst thoughts about the plight of those of us involved in this taking is that
34 we're just a few citizens with no political clout, we are quite helpless and at the mercy of
35 the Board and the Commissioners. With the thousands of acres put aside for forest
36 land what is 1700 acres as part of that, it is meaningless in the larger picture of things, it
37 is everything to each of us who have the privilege of caring for our little piece of the
38 earth.
39

40 LEIN: Any questions from members of the Commission? Thank you.
41

42 KOLKE: I'm Jerry Kolke, I live at 16017 NE 319th Street. I'm here tonight to speak for
43 Don Kullberg who lives at 2531 NE Stanton in Portland, Oregon, but in reference to my
44 address (inaudible) 16307 NE 319th Street, the Don Kullberg farm which I -- is on
45 Section 18 there, and Don is out of town and he asked me to read this letter, and then if
46 I could beg your indulgence I'll explain a little bit of history right after that. I'll see if I can

1 read this tonight.

2
3 Over the last 90 year, plus years our family has chosen to maintain an open space
4 environment over several different parcels of land in Area 18. In 1994 our land was
5 dramatically downzoned from two and one half acre rural parcels to what it is today.
6 The latest effort to again downzone our property is in the form of large lot resource land.
7 Our land consists of lava flow from Yacolt Mountain and despite what the staff says our
8 soil is extremely rocky and difficult to prepare for agriculture or forest activity. No one
9 knows better than I do that our land lacks any chance of long-term commercial
10 significance. We need the smaller lot sizes to maintain the versatility that is so
11 necessary for us to properly manage the property in open space.

12
13 The project staff claims that this land should be designated as resource land because of
14 current use, large parcels, buffering of resource land and the soil. It is true our land is in
15 current use. Years ago the County encouraged landowners to sign up for current use to
16 preserve open space. Our willingness to do that has resulted in our being penalized
17 and set up for additional regulations. This certainly was not part of the original
18 agreement with the County and is discrimination at its worst. The agri-forest focus
19 group and the Clark County Commissioners clearly decided that 10 acres would be
20 adequate to buffer any resource land. Our land is in 10-acre zone; therefore, if there
21 were any designated Forest Tier II lands adjacent to mine, the current zoning for land is
22 more than adequate for buffering purposes. Our property is in current use but it is in the
23 category of agriculture, not forest.

24
25 The fact that we have large parcels of land seems to be the key factor in an attempt to
26 put us in resource land. Just because we have large parcels with trees and grass does
27 not justify additional abusive regulations which would place our land into large resource
28 zoning. Our property is surrounded by legal two and one half acre and 5-acre parcels
29 which have existed for many years. The historical development of this area has been
30 towards smaller lots and rural home sites. The criteria of large lot and trees growing is
31 not only a requirement to designate resource land according to GMA, other numerous
32 criteria are just as important.

33
34 In conclusion, I believe that I am singled out for downzoning just because I have
35 contiguous large lots. The GMA does not allow for that type of zoning. It would also be
36 interested to know how many trees have been cut and how much land has been divided
37 and sold in the last ten years that would not have been touched if it were not for the fear
38 created by our State and County regulators. When will it end. Signed Don Kullberg.

39
40 And if I can beg your indulgence just for a few minutes, rather than speaking in general
41 I'll be up here at once or one time. I've lived on this piece of property for 34 years now.
42 I also manage what is referred to as an agricultural COHP in the City of Battle Ground.
43 Agriculture is going away in this County. There are not farms left. There are few like Mr.
44 Schumacher who have been able to eke out a living on that farm. My company went
45 bankrupt in 1986 trying to follow the agricultural philosophy that was left in this county.
46 It wasn't there then, it wasn't there before that, and that company went bankrupt as a

1 COHP directing all its efforts towards the farmers. When I started there in the early '60s
2 there were over 200 dairies in this county, now there's about six or seven. Most
3 agriculture is in the small acreage, the two, five, ten, not the big acreage because
4 everybody is downsizing, they're going to companion pets. We've -- my business is
5 directed towards the horse and the companion pet, dog, cat. We see it at the Fair, I'm
6 on the Fair board, we see it at the business, we see it everywhere that it is -- everything
7 is being downsized, and that's where as I think somebody pointed out that a lot of the
8 animals are coming in, it's not the large commercial producer.

9
10 When I started on this farm I was running 80 cattle. I -- Pat just spoke, we used to run
11 our cattle, I rode a horse on that 200 acres of theirs when her dad had the place running
12 cattle on that property in the timber to keep the grass down. Excuse me, in the timber.
13 He couldn't make it work. We utilized it. That gave us a chance to operate hay ground
14 on the clear ground that we have enough to put it in the barn and run a few cows. We
15 did not make a lot of money. We were able to pay taxes. We didn't buy very much
16 equipment. I'm running very, the same tractor I had 35 years ago, the same baler. We
17 did buy a new rake in the last few years, that was because of all the rain and trying to
18 put up hay in this country, so we put up a new rake. I've watched all the farms in the
19 county go away. One of the big ones that we had for a customer, Pioneer Potato, lost
20 Bachelor Island and then lost the 250 acres out there at Pioneer, we're seeing that all
21 go homes and commercial. Battle Ground FFA was the largest FFA, Future Farmers of
22 America, class in the United States in the early '70s, it has gone away now, there is not
23 a class. There is not a class in Evergreen. It's trying to be salvaged in Evergreen but
24 there is no, there is staffing arguments, so there's no FFA class in this country. There is
25 still some 4-H and it's all competitive, it's dogs, cats, sheep, a few hogs left, but you
26 start getting into big animals and it gets really limited except if you go to the Fair for the
27 market sale.

28
29 Another point that's been pointed out, I've seen it in the paper, I take, you know,
30 fertilizer, tractor dealers, when we were here you could buy a 50 horse tractor that
31 would pull those balers or something that John might have talked about, now you can't
32 buy, they're all lawn and garden tractors. I have neighbors that own 5-acre pieces, don't
33 run an animal on it, they mow it with mowers. We talked about fertilizer dealers. I sell
34 fertilizer but it's not in bulk, it's in bags, and that's what small acre farmers are getting.
35 We drilled a well on this place, this is my last point, when we were talking about soil and
36 productivity of the place, we drilled that well, it was about three to five feet of soil where
37 we drilled it, the next 520 feet were rock and it was bad rock and we got zero water. I
38 can feed the cattle with it but it's -- well, it's browner than this, but it's brown water, it's
39 rust. Unfortunate but that's the way it is. The cattle and that's what it's used for.

40
41 There was 10 acres in the early '70s that I cleared for these people, I have never spent
42 so much back breaking work clearing a piece of ground in my life before or since then.
43 It was shorter then than it is between then and now, but discing rock and picking rock,
44 we plowed the field, the three little sections of fields which amounted to a total of 10
45 acres, we used a large disc plow that turns a terrible farrow, but it's the only way to roll
46 up over the rocks that would about rip your teeth out, and then we spent the next five

1 months picking rocks all the way down to picking it with a bucket and hauling those
2 rocks to the side and dumping them into a hole or something we dug there to bury the
3 rocks. Now I know why there's large piles of rocks all around that farm because
4 whoever cleared the other acreage had to clear rocks. It's surface rock and it's not good
5 rock, we might be mining for Yacolt which probably wouldn't help Pat, but -- and the
6 trees, we spoke about the -- Carol mentioned that the trees were bad trees that we took
7 off there, we just logged a chunk. We couldn't log a load or two because of the
8 regulations so we had to clear-cut a chunk that should have been logged, but we
9 haven't been able to do that and it's not good timber, a lot of it's rotten, rotten tops, low
10 ground, it's rocky, it's terrible growing. I thank you for your indulgence and I'll quit for
11 the evening.

12
13 LEIN: Any questions of Mr. Kolke?

14
15 KOLKE: Thanks.

16
17 LEIN: Anyone else wishing to testify in this particular area?

18
19 SCHUMACHER: I'm Alan Schumacher, I live at Heisson, Post Office Box 56, it's a
20 farm. Dear sirs, I better put my glasses on, first of all let me say my reason for being
21 here this evening is not because I want to subdivide my farm, had that been my goal it
22 would have been done many years ago, my reason for being here is to try in some
23 small way to resist the kind of tyranny and mindless government that drove my great
24 grandparents from Europe many years ago. They came to this country, a land of
25 opportunity, where common people could own land and at that time had constitutionally
26 guaranteed property rights. The letter of February 10th we received from your office
27 was very upsetting to us. The three parcels of our property, mainly Tax Parcel Numbers
28 233475-000 and Number 226261-000 and Number 226262-000, that your staff is
29 proposing to drastically downzone are the very same parcels that went through a long
30 and exhaustive analysis in the agri-forest hearing several years ago. These parcels
31 originally zoned Rural Estate, two and a half acre, and then downzoned to Agri-Forest
32 20 were finally deemed to not meet the requirements of ag land of long-term
33 commercial significance and so were zoned Rural Estate 5 and 10.

34
35 They are composed of class three to five heavy clay, shallow, poorly drained, infertile
36 soils, Minniece and Cove that are very difficult to farm. They will only support low value
37 grass and grain crops that are nearly impossible to show a profit on here in Clark
38 County. It's simply no longer possible to put together a land base that allows the
39 economy of scale necessary to compete with Eastern farm areas. These parcels are
40 landlocked and surrounded on three sides by small lot developments. They are also all
41 served by public water. I believe the only reason they have been targeted is because
42 they are in current use and are large lots. This alone does not qualify them for ag
43 zoning the way I read the Growth Management Act. People driving by here see a pretty
44 farm, what they don't see is the shallow soil and wet spots that dictate what can be
45 grown and when the farming can be done. They see pretty green crops but they don't
46 see the high cost and large amount of fertilizer it took to make them that way. Then

1 finally they see a beautiful golden ripe crop and think of a bountiful harvest, but they
2 don't see the poor quality, shriveled kernels and low yield caused by normal summer
3 heat and thin soil with low moisture holding capacity. We've been able to make a
4 modest living on this farm only because we put enough acres together years ago at
5 lower prices and carry no debt on land or machinery. It produces absolutely no return
6 on investment and would not pay the depreciation on modern machinery. How many of
7 you would buy and operate a business like that. We were also able to subsidize it for
8 years by renting better land close by. This is no longer an option as that land is now
9 built to houses and my partner of 40 years, the love of my life, has died.

10
11 I was able to attend the earlier hearings since I was caring for her -- I was unable to
12 attend the earlier hearings since I was caring for her as she suffered from terminal
13 cancer. She passed away on the 28th of February leaving me to care for this entire
14 place alone. I served on the original Agri-Forest Task Force and remember spending a
15 lot of time determining the proper zoning for all these parcels. This 3500 acres was not
16 selected by the Growth Management Hearings Board, but I believe was submitted in a
17 minority report by a few radical preservationists who at that time called themselves the
18 Clark County Rural Preservation Association. I believe a member of that group now sits
19 on this Commission, lives on a small lot bordering my farm and was instrumental in my
20 farm being included in this attempted downzone. In my opinion this represents a
21 conflict of interest that should preclude him from voting on my parcels. It also illustrates
22 another prime reason why these few remaining farms that are nearly surrounded by
23 development should not be zoned as resource land. His and his neighbors' dogs
24 continually run trails in our fields damaging our crops and in general make farming
25 difficult for us. It is also ironic that he lives on a piece of ground that was subdivided off
26 our farm in the hard times of the 1930s, so now has his own small place in the country
27 and don't want to see any more of it subdivided. Looks like hypocrisy to me.

28
29 I have no problem with zoning if it's fairly done and protects the current property values.
30 In fact many of us farmers tried to get it done years ago when it would have protected
31 our way of life and would not have impacted our property values, but it would have been
32 done simply for us at that time and we had no political clout so it wasn't done. Now
33 when there's very few of us left, each farm is an island unto itself with no room to
34 expand, commodity prices stuck in the 1960s and grossly inflated input costs that
35 reduce us to near serfdom, there's great pressure to drastically reduce the value of our
36 land and timber with restrictive zoning, resource zoning and overly wide creek buffers. I
37 believe this is done, being done illegally simply to reserve a few pastoral views and not
38 to preserve a commercial farm infrastructure which you all know no longer exists in this
39 county. I've lost thousands of dollars worth of timber to creek buffers this past year with
40 no acceptable compensation. Now you're proposing to steal hundreds of thousands of
41 dollars worth of property value from me illegally with again no compensation. I ask you,
42 how can a government depend on its citizens to continue to be law abiding and pay
43 taxes honestly and on time when that very government illegally and arbitrarily steals
44 huge sums from these very citizens. 20-acre zoning won't save commercial farms in
45 Clark County. If we're forced to sell 20 acres to survive some hard times, we don't have
46 a viable farm left, we might continue to exist if we could sell a 5.

1
2 Finally, I'd ask you to leave our property values and our zoning alone and we'll continue
3 to provide those pretty red barns and pastoral views you all desire as long as we
4 possibly can. Our track record of 114 years farming in the Heisson area of Clark
5 County proves that. Thank you.

6
7 LEIN: Are there any questions? Anyone else wishing to testify in this particular area?

8
9 WIRTANEN: I guess as stated earlier my name is Ed Wirtanen, P.O. Box 526, Yacolt,
10 Washington 98675. We're speaking there to Area 21. This is one of the parcels there.
11 My wife and I purchased this parcel in January 2001 from Mr. and Mrs. Nyback. The
12 parcel is 37.8 acres and is located one half mile south of the Yacolt city limits. Yacolt is
13 currently upgrading our sewer systems and fast becoming a viable city. Logically it can
14 only grow to the south toward my property. Former maps appear to show that the
15 proposed urban growth boundary lines from Yacolt would extend south at 311th
16 Avenue, thence east to Railroad Avenue. This would place my entire parcel within
17 future city limits.

18
19 I understand that existing urban growth boundary lands are zoned 10 acres. Currently
20 there is a residence and a shop on my parcel. The Planning staff documents of Area 21
21 do not show that my residence exists. The land was logged in 1986 and young trees
22 are now growing. About 10 acres is cleared, is cleared land. Yacolt Creek runs through
23 the east and north edge of the property and two small tributaries dissect the parcel. The
24 Nybacks attempted to short plat this parcel in 1999, but because of the huge expense
25 and their aged condition they only completed it through the pre-app stage. In
26 September of 2002 we also had a pre-app meeting with Clark County and are currently
27 continuing the short plat process that was started in 1999. When we purchased the
28 property in 2001 the zoning was Rural 10 acres with no indication of future change. We
29 were not aware that this parcel had been recommended for a zone change and
30 therefore had no opportunity to participate in any public process. The 3500 acre
31 remand staff report Item B, public involvement, states that the public involvement
32 component was done in 1997 and 1998 and satisfies the GMA criteria. I would
33 disagree.

34
35 We as affected property owners have never had prior opportunity to participate in the
36 public testimony concerning our property. I also feel that public notice for the remand
37 has been insufficient. The staff report to the Planning Commission is dated March 3rd
38 of 2003 with the first open house held on February 25th and the second on March 6th.
39 No public testimony was taken at these two open houses. As an affected property
40 owner we received a notice of proposed change on or about February 15th, and a copy
41 of that postmark is enclosed in here. This is very short notice, especially if the
42 landowner is out of town. It appears that for some reason this process is being
43 expedited very rapidly. Perhaps the County's afraid to run due public process.

44
45 I attended the open house on March 6th and spoke to Mr. Robert Higbie concerning this
46 parcel. I had with me a GIS map drawn to scale with all the current riparian buffers

1 shaded to show what degree my property would be affected for future timber
2 management. Out of the total 38 acres all but about 7.5 acres would be prohibited from
3 active timber management, that also is included in your packet. I believe that might fall
4 into the "takings" category. Mr. Higbie informed me, and this is a quote, that was not
5 the concern of the County planners whether I could harvest my timber in the future. In
6 disbelief I asked him to kindly repeat the statement he had just made, he stated that is
7 correct, it is not our concern if you can ever harvest timber on your property. A reporter
8 from the Reflector also standing nearby possibly heard the comment. I have enclosed
9 the newspaper article regarding this open house meeting for your review. It was also
10 suggested that property owners could meet with the staff individually, but when a
11 person is working 8:00 a.m. to 5:00 to 6:00 p.m. there's no reasonable opportunity to
12 meet.

13
14 Now the criteria for designating forest lands states "primarily devoted to growing trees
15 for long-term timber production." The words "timber production" mean that you must
16 produce timber. To produce timber you must be able to cut and process trees into
17 timber. Remember, a cow is not beef until it is slaughtered and processed. I have
18 noted in Exhibit A that one of the requirements that must be met is long-term
19 commercial significance. In the Reflector article dated March 12th Mr. Higbie states,
20 this is also a quote from the article, long-term commercial significance was not
21 specifically considered in the evaluation.

22
23 Timber production. I have included with my testimony the map showing the riparian
24 buffers scaled according to current State forest practice rules. These rules state that
25 parcels over 20 acres are considered large landowners and are subjected to buffers up
26 to 186 feet on either side of all Class III creeks. Small landowners, 20 acres or less,
27 can receive the small landowner exemption allowing harvest to as close as 28 feet on
28 either side. And Jim earlier brought you up-to-date on that and it sounds like in the last
29 few days there's been a revision of that, possibly widening those buffers slightly. As a
30 logger in the county I haven't received notice of that yet, which is rather strange, but he
31 has a copy of it here. But in any case it's still 50 feet or less for the small landowners.
32 So under these rules as a large landowner in a proposed 40-acre zoning, approximately
33 85 percent of my parcel would be off limits to future harvest and therefore forest
34 management. Under 10-acre rural zoning much more timber production would be
35 achieved.

36
37 Now compatibility with surrounding areas. This land is surrounded by rural
38 development. On three sides there are 5-acre parcels and on the remaining side Rural
39 10 acre parcels. I actually have two 2-acre parcels abutting me also which isn't
40 included in this document. I believe that if 10-acre zoning was retained it would
41 effectively buffer rural development from the forest resource farther to the west. On the
42 GIS map I have noted, and that's included in your packet, that the residential
43 development on the abutting parcels which shows the development patterns in my area.
44 In the GMA WACs it states the compatibility, intensity of adjacent and nearby land use
45 and settlement patterns. My parcel is already an island surrounded by intense rural
46 development. I believe that an area that is so highly developed already is unsuitable for

1 resource land designation. To designate this area "resource" would create an island
2 among predominantly rural lands. Recent comments from my neighbors living on the 2
3 acres abutting my land indicate that they don't want me to harvest trees that are
4 growing behind my house or the residence that's on the property.

5
6 And as far as selection of these parcels, what criteria was used to select my parcel
7 versus other parcels in Clark County. Was it size alone, exactly who designated my
8 parcel for change in the first place. I note in the staff report information indicating current
9 residence status, but my parcel does not show a home site. I have been told that soil
10 criteria was used according to the soils analysis. Oh, according to the soils analysis 48
11 percent of my parcel supposedly contains prime ag soil and the other 53 percent is
12 critical areas. This is where timber production would be prohibited. One other factor
13 obviously overlooked was the close proximity to the city of Yacolt. A Clark Public
14 Utilities water main extends within 900 feet of my property and it's only a matter of time
15 before the city limits moves into that area, into my area. It's interesting to note that the
16 only way my land can be incorporated into the nearby resource land is to join it in a line
17 with adjacent properties. The adjoining properties are approximately 1331 feet from the
18 southern boundary and city limits of Yacolt. And since this document was printed I have
19 actually checked further into that and the north corner of that is only 800 and some feet
20 from the city limits of Yacolt. I also note, oh, excuse me, the adjoining properties are
21 approximately 1331 feet from the southern boundary and city limits of Yacolt. The Teel
22 property actually has public water on-site which stops at her driveway, that's Mrs. Teel.
23 A fire hydrant is in that location. Designating current or Rural 10 parcels to FR-40 will
24 only increase the conflicts between rural living and forest resource activity.

25
26 I also note that a site visit was supposed to have been conducted on February 27th. No
27 one has notified us or asked permission to inspect our property. In my opinion it is
28 impossible to know if my parcel is suitable for forest production by doing a drive-by only.
29 Perhaps they've only fulfilled a requirement and no actual inspection took place. The
30 staff report claims evidence was found of current logging, and that was on the Teel
31 parcel as is noted there, and to my knowledge there has, there has been no recent
32 logging on the Teel property. The neighbor to the south is doing some land clearing. Is
33 staff looking at the wrong parcel? The report indicates Area 21 consists of 90 percent
34 forest cover, I disagree with that observation. The aerial photo shows about two-thirds
35 of the land has some type of vegetation, but it's hard to discern what that vegetation is.
36 From my, from my land one can look across to the Teels' very large cleared pasture
37 which is used to graze cattle.

38
39 And in conclusion, the planners have inappropriately included my parcel as land to be
40 rezoned and I'm strictly opposed to this strategy that's used. My parcel has no
41 connection to the other resource parcels, and that's, that's how they joined the three
42 other adjoining parcels to mine to touch resource land in the far corner, kind of a
43 leapfrog effect. It is also separated from adjoining parcels by a County road, it therefore
44 must stand on its own merits. The land is well suited to a Rural designation according
45 to the GMA and would be much more productive if it remained in the existing Rural 10
46 zoning.

1
2 And also just as a final comment I'd like to point out that as a personal comment to the
3 Board I would like to draw your attention to Page 15, Lines 19 through 21 of the
4 Hearings Board remand report of May 17th, 1999. It clearly states the County must
5 review. It is also noted that on the back page, the back of Page 1 of the staff report it
6 clearly states "remanded for further consideration." Nowhere does it say that this
7 recommendation must be approved or adopted. Thank you.

8
9 LEIN: Are there any questions of Mr. Wirtanen? Thank you. Anyone else in this
10 sector?

11
12 HIGBIE: Okay. We're making no recommendations to change on Map Number 3. Map
13 4 we have two areas that we're recommending, so would you like to take testimony on
14 those as well?

15
16 LEIN: Yes, please. Anyone wishing to testify on these, any parcels here? Apparently
17 not.

18
19 HIGBIE: Map 5 we have two areas that we're recommending for change. Areas 21 and
20 23, Map 5, and that's the last map that we have, and I don't know if there's anybody that
21 wants to testify on that.

22
23 LEIN: Is there anyone wishing to testify on this map, on a parcel?

24
25 HOLCOMB: I have a question. Ours is Number 25, were you recommending to change
26 on that one?

27
28 HIGBIE: What's the name?

29
30 HOLCOMB: Holcomb.

31
32 SCOLNICK: Yeah, in Area 25, yeah, we are.

33
34 HIGBIE: On Map 5, yes.

35
36 HOLCOMB: My name is Clark Holcomb, our address is 2210 West Main Street, Suite
37 107, Box 163, Battle Ground, Washington. We have 80 acres. I would like to request
38 that it be kept in R-10s. There's only one corner of the property that really has
39 agri-forest parcels along that side. Most of the property is surrounded by smaller lots,
40 most of them with houses on them. The map shows that along the south side of directly
41 there an R-40, I think anyway, but that is all covered with houses, there's most of them
42 on 10 acre or 5-acre lots, and so there's only really the southwest corner or southeast
43 corner that has forest land adjacent to it.

44
45 We've had the land for 27 years and we've had it leased out most of the time and the
46 income from the property barely pays for the amount of wheat spray and the property

1 tax. The present tenant has one more year on the lease and after that we're planning to
2 develop the land and refinance our retirement. Putting the land in 40-acre parcels
3 would cause a financial hardship because the value of the land would be greatly
4 reduced. We tried farming, we tried raising hay and just, you don't make anything, I
5 mean it's impossible. The people we've had renting it have all had other jobs, they've
6 ran cattle and they lost, I mean almost went bankrupt. We have a guy on there now that
7 has 12 mules and 4 horses and he has a good job, that's the only way he can afford to
8 rent it from us so, but he's retiring in this year so there's no way that he can continue to
9 do that. I mean farming is -- actually in that part of the county is a joke. I mean there's
10 nobody that farms out there, it's just they don't. I mean you can't make a living at it. It's
11 just -- we do have part of it is in trees and even that is, you know, is hard to make -- if
12 you log it, replanting and cleaning it up and putting it back the way it's supposed to be is
13 almost impossible too to make a profit on it so.

14
15 Really, owning the land for a period of time, the only way you're going to make a profit
16 on it is when you sell it. I mean it's an investment and that's what it is, it's not something
17 you're going to make get rich off from, let me tell you, well, until the County allows you
18 to sell it, but if they make you sell it in 40-acre pieces it's really not good for anybody
19 because nobody can farm it. I mean they can't make a living from it. You can't. If you
20 break it into 5-acre pieces like Jerry Kolke was saying, you know, then you can raise
21 horses or cows or whatever as a small farm and you could actually afford to do that, but
22 with 40 acres you can't afford it. We had 5 acres that we just sold and we always raised
23 a cow or two and the people that bought it from us have three horses that they're raising
24 now. And it's a whole lot better than having 40 acres, I mean, because you can take
25 care of it, but you can't have 40 acres and expect to farm it. You have to, to have 40
26 acres you have to have a really good job to be able to afford it.

27
28 So anyway, that's what I've got to say. I think, I don't think it should be changed
29 because even the land that, the resource land, and I don't understand this, but the
30 resource land to the south but it's got houses on it. I mean it's like 5-acre lots and
31 there's houses on it already so I don't see why ours should be classed as 40 acre, you
32 know, on 40-acres classification when, and then we can't subdivide ours when the,
33 that's already been subdivided. So anyway.

34
35 LEIN: Any questions of Mr. Holcomb? Thank you. Is there anyone else that we've
36 missed in terms of testimony at this point? Yes, sir.

37
38 LOBEY: My name is George Lobey, I'm at 31616 NW 51st Avenue in Ridgefield and I
39 have 79 acres there and I've lived on it for 30 years and have been farming it ever since
40 I've been there. Of course I've worked out, had a full-time job during that time, and I
41 retired from my job just recently and I don't think that I have any long-term commercial
42 significant agriculture or forest land on my place. It says 2.6 percent prime forest land
43 on their, the report here and it says I have 80 percent forest cover, but I have about
44 maybe 5 acres of Douglas Fir and the rest is just trees, not forest land. And I've tried
45 raising different crops on there and I've just been pasturing it lately, raising cattle, and
46 now when I can't take care of the ground or I'm getting to the point where I probably

1 can't take care of it much longer, we're not, we're not able to divide it because it isn't, it
2 isn't an 80-acre piece so I guess we have to leave in it one piece, I'm not sure, I've had
3 different comments on that. But, anyway, I would like to leave it, see it left at least in the
4 20-acre zoning that it's in now. I wasn't prepared for this so that's all I've got. Thank
5 you.

6
7 LEIN: Any questions of Mr. Lobey? Any other testimony? Carol.

8
9 LEVANEN: Can I just say one more word?

10
11 LEIN: Sure.

12
13 LEVANEN: It was in the other testimony --

14
15 LEIN: Carol, you have to come to the mic, please.

16
17 LEVANEN: I have to be here. It was in the other testimony that I gave. Do you want
18 me to say my name and address again?

19
20 LEIN: Please.

21
22 LEVANEN: Carol Levanen, 17614 NE 299th Street, Yacolt, Washington. The testimony
23 that I don't see, and didn't bring, one item particularly was of interest to me. I was
24 looking at the aerals to get an idea of what was going on with why they would have
25 designated certain parcels what and the map on your map, but I think you may have
26 explained it, it's a 2000 map, but on the, on the page of your map of the area it says
27 February of 2003 and in 2001 we clear-cut 35 acres and that map that I was looking at
28 still showed that timber on the property. So I was concerned about that because I
29 thought, well, either the aerial is too high, you really can't see what you're looking at, or
30 it's not an appropriate map to be using because it's not current, but you might want to
31 look at that. I made that note in my other testimony and how do I get that testimony to
32 you if you don't have it, do I mail it again? Or I thought if I mailed it you guys would
33 make the ten copies and be able to review it, but I'm a little afraid to mail it again, but I
34 don't know how to get it to you.

35
36 HIGBIE: She indicated that she mailed her letter to the County Commissioners, the
37 only information that we have got from the County Commissioners in the last week or so
38 are two tracking memos which I did not look at because I didn't, and one of them may
39 be her letter. And if that is indeed the case I apologize, but we got them two days ago I
40 believe it was. And it may not be yours, but if they are I can mail them to you.

41
42 LEVANEN: I did mail it approximately two weeks ago and I did call, I called the
43 Commissioners' office to find out the address that I would send to both the Planning
44 Commission and the Commissioners and she told me it was the P.O. Box 5000. And I
45 put on the letter that it was to go to the Planning Commission and the Board of
46 Commissioners so I don't know if that was --

1
2 LEIN: We'll check on it then.

3
4 LEVANEN: Okay. Otherwise I can resubmit it, but you need to let me know how to do
5 that.

6
7 LEIN: Well, we'll ask Mr. Higbie. If we can't find it, we'll be in contact with you.

8
9 LEVANEN: Thank you.

10
11 LEIN: Thank you. Any other testimony? With that we will conclude the public hearing
12 and close the public hearing at this point.

13
14 HIGBIE: I would like to make one comment on one piece of property that we identified
15 after we had, you want to put this up on the projector, on Map 4. This is an area that we
16 had originally, and it is the property that we have not made any recommendations for a
17 change on, when we went back and looked it's clear that we made an error. The
18 property that we thought was a certain size and configuration turned out to be much
19 larger and was contiguously owned and managed with land that was already zoned in a
20 Resource designation, so if there is an opportunity, if we are continuing this hearing to
21 another time, we would like to notify those folks. Well, first we'd like to reconsider it to
22 see if we would recommend a change on it. And, secondly, if indeed we do, we would
23 like to notify those folks that we would be making that recommendation so that we can
24 get them up to speed and for the next hearing.

25
26 LEIN: Rich, could we then open testimony for just that parcel or would we have to
27 reopen the entire hearing?

28
29 LOWRY: You could just open it for that one parcel. But I'm assuming you're leaving the
30 record open for purposes of getting additional written notice

31
32 (Tape recording difficulty.)

33
34 LEIN: Correct.

35
36 LOWRY: If the Commission is inclined to have this parcel advertised and considered,
37 then you could leave the testimony record open only for as to that parcel.

38
39 WRISTON: I'd say forget it. I mean I would just say forget it, yeah. I don't want to be
40 adding stuff at this point, I mean, and where does it end, so I'd say forget it. I guess I
41 said that three or four times now so.

42
43 DELEISSEGUES: Do you want to forget it?

44
45 LEIN: Would you forget it, Jeff?

46

1 WRISTON: Well, you guys can jump in at any time.

2
3 LEIN: What's the desires of the other Commissioners?

4
5 MOSS: Is there an adverse effect of having a split zone like this, Rich, that --

6
7 WRISTON: Well, they're adding more in. They're adding more in though, I mean.

8
9 MOSS: Yeah, I know.

10
11 LOWRY: I guess our concern is that that parcel is going to have to be a part of your
12 recommendation. At this point staff is because we have to respond to the remand for all
13 3500 acres and this is part of the 3500 acres. I think staff's concern is that with what we
14 know, now know about that parcel, it would have been included in the recommendation,
15 so there is some jeopardy that if we take Mr. Wriston's advice or recommendation that
16 that could be a basis for an appeal back to the Hearings Board.

17
18 LEIN: Don't want that.

19
20 LOWRY: My own personal view is is that there is some very good reasons to justify
21 Jeff's recommendation.

22
23 MOSS: Having said that, that was a very good idea, Jeff.

24
25 WRISTON: I have one comment that might be helpful. I don't know whether, how hard
26 it would be or not on when we go into this, I really like the aerials because it kind of
27 gives you an idea of what's going on, but I find myself flipping back and forth, and I
28 know GIS can do this, I mean you just have to tell me whether this is hard to do, it would
29 be nice to have -- what's very telling about the aerials is you can see what's going on on
30 the ground, what's very telling about the color maps is then the aerials don't show the lot
31 lines and then you go to color maps and you see all kinds of lots all around it and that to
32 me tells me what's, that's even more persuasive than the aerials. Is there a way of
33 putting the lot lines on the aerials?

34
35 HIGBIE: Yes.

36
37 WRISTON: And is that a tough thing to do for our deliberations because that would be
38 convenient?

39
40 HIGBIE: No.

41
42 SCOLNICK: They are.

43
44 WRISTON: Because almost everyone that testified here tonight, as I look at the aerials
45 and I go, oh, and then I look at the maps I go, gees, you're right, yeah, there are lots,
46 you know, all over the place.

1
2 SCOLNICK: The lot lines are on the aerials, but you have to look very closely though.

3
4 WRISTON: Yeah, I just I see roads and streams. They're not on my --

5
6 SCOLNICK: I'm sorry, you're right.

7
8 WRISTON: They're not on my --

9
10 SCOLNICK: It is.

11
12 WRISTON: Oh, see I'm looking at what I had in work session, I didn't go to the --

13
14 RUPLEY: The new ones had it --

15
16 SCOLNICK: Oh, the new ones yeah.

17
18 RUPLEY: -- and the old ones did not.

19
20 WRISTON: The new ones. I still don't see them though. Do you see them?

21
22 MOSS: No, I don't think they're there. I don't see them either.

23
24 RUPLEY: Yeah, I thought I did.

25
26 WRISTON: But that would be helpful.

27
28 HIGBIE: If they're already there I'm sure we could make them bolder.

29
30 WRISTON: That would be great. That would be helpful. Thank you.

31
32 DELEISSEGUES: Is that date on the aerial correct like February the 13th, 2003?

33
34 HIGBIE: That was the date the aerial was printed, not taken.

35
36 DELEISSEGUES: What?

37
38 HIGBIE: The 2003 date was the date the aerial was printed, not when it was flown.

39
40 DELEISSEGUES: When was it taken?

41
42 HIGBIE: September of 2000.

43
44 MOSS: 2000.

45
46 LEIN: Okay. We have a recommendation from Mr. Wriston to not include the other

1 parcel?

2
3 DELEISSEGUES: We ought to take testimony on it.

4
5 LEIN: Pardon?

6
7 DELEISSEGUES: Are we not including it?

8
9 LEIN: That's what he has voiced at this point.

10
11 MOSS: Is that a **motion**?

12
13 WRISTON: Yeah. Three, four times.

14
15 MOSS: Okay, I'll second.

16
17 LOWRY: I don't think it's necessary to have a formal. At some point staff's going to
18 have to make a very brief presentation on the parcels that haven't been included and
19 you're going to have to then pass a motion in terms of whether you agree with staff's
20 recommendation as to those parcels.

21
22 BARCA: Is this really our call at this moment, telling you what you're recommending or
23 not? I guess the way that I heard you say it is you felt like you had made an error
24 previously and you were trying to correct that and therefore you wanted to bring that
25 forward since we were doing a continuance.

26
27 HIGBIE: But it's also important to get a sense of where the Planning Commission is
28 generally coming from. I don't think notifying these people for no reason would be a
29 good idea.

30
31 BARCA: Well, the chances of approval of your recommendations, is that what you're
32 asking the Board?

33
34 HIGBIE: That's what I'm asking for, yes.

35
36 BARCA: Well, there's a high probability that you're not going to get approval of your
37 recommendation the way that things are moving this evening. But is it the appropriate
38 thing for you to do as far as what you bring forward in a recommendation, I think, I think
39 that's a separate matter that the Planning staff should carry forward and say what you
40 believe is appropriate is what you put on the table, what we think is appropriate is how
41 we end up voting, and then the County Commissioners do what they want to do.

42
43 HIGBIE: I agree.

44
45 BARCA: So I wouldn't ask us up front what your recommendation should be because --
46

1 HIGBIE: I wasn't doing that.

2
3 BARCA: Oh, okay, good.

4
5 LOWRY: Yeah, let me maybe state it slightly differently.

6
7 WRISTON: Well put, Rich.

8
9 LOWRY: I can talk in the dark. Staff had already made the decision that on this
10 particular parcel that we weren't going to put off this hearing for purposes of notifying
11 that parcel and having an opportunity to talk to them. I think it's staff judgment this is
12 not an important enough issue in and of itself to cause this process to be delayed, but
13 staff wanted the Planning Commission since you're going to have to ultimately agree or
14 disagree with staff's recommendations on both classes of property to know that staff
15 has the concern it does. And so if you at your direction say we want to have this one
16 formally advertised and brought before us, that's what we would do. But if you do
17 nothing, staff's not going to, has already made the decision that we're not going to
18 cause this property to be noticed and brought before you.

19
20 LEIN: Is that consensus, doing nothing? Okay.

21
22 DELEISSEGUES: We're good at it.

23
24 LEIN: We're good at doing nothing.

25
26 MOSS: We excel at doing nothing.

27
28 LEIN: We need a **MOTION** to continue this. It would be to a date certain, which is April
29 17th.

30
31 MOSS: So **moved**.

32
33 LEIN: Is there a second?

34
35 DELEISSEGUES: **Second**.

36
37 LEIN: All in favor signify by saying aye.

38
39 EVERYBODY: AYE

40
41
42 **OLD BUSINESS**

43
44 None.

1 **NEW BUSINESS**

2
3 None.

4
5
6 **COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION**

7
8 None.

9
10
11 **ADJOURNMENT**

12
13 The meeting adjourned at 10:00 p.m.

14
15 All proceedings of tonight's hearing are filed at Clark County Community Development,
16 Long Range Planning Division.

17
18
19
20
21 _____
22 Vaughn Lein, Chair

_____ Date

23 *Minutes Transcribed By:*

24 *Cindy Holley, Court Reporter*

25 *Sonja Wiser, Administrative Assistant*

26
27 *SWmin 03-20-2003.doc*